

**Mooncusser Sector, Inc.  
Fishing Year 2019 & 2020  
Operations Plan and Agreement**

*Submitted April 31, 2019*

This OPERATIONS PLAN AND AGREEMENT (this “Agreement”) is entered into as of this 1<sup>st</sup> day of May 2019 by and among the permit owners listed on the signature pages hereto and any other permit owners that are admitted pursuant to the terms of this Agreement (each, a “Member” and, collectively, the “Members”).

**RECITALS**

**WHEREAS**, under Amendment 13 to the Northeast Multispecies Fishery Management Plan (such amendment shall hereinafter be referred to as “Amendment 13” and the plan shall be referred to as the “Plan”), and the regulations promulgated thereunder, a self-selecting co-operative, or “sector,” of fishermen is authorized to submit to the New England Fishery Management Council (the “Council”) a proposal for the allocation of catch or effort of a regulated groundfish species to such sector;

**WHEREAS**, on September 28, 2018, the Members formed a fishery sector through Mooncusser Sector Inc. (the “Sector”), for the purposes of establishing a legally responsible entity (i) to obtain an Annual Catch Entitlement (“ACE”) of Georges Bank (“GB”) cod from the NOAA Fisheries (“NMFS”), as authorized by Framework Adjustment 42, and to sub-allocate such ACE among the Members and/or their permits and vessels, and (ii) to take such actions as may be necessary to ensure that the Sector, its Members and their vessels conduct groundfish leasing activities in compliance with the Plan, Amendment 13, the Magnuson-Stevens Fishery Conservation and Management Act (the “Act”), Framework Adjustment 42, and applicable regulations promulgated by NMFS;

**WHEREAS**, in connection with the formation of the Sector, the Members entered into an Operations Plan and Agreement, dated April 31, 2019.

**WHEREAS**, on April 9, 2010, Amendment 16 to the Northeast Multispecies Fishery Management Plan (“Amendment 16”) authorized new sectors, the allocation of other groundfish stocks to all sectors, and additional exemptions from fishery management regulations; and

**NOW, THEREFORE**, in consideration of the mutual agreements, covenants, rights and obligations set forth in this Agreement, the benefits to be derived therefrom and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound hereby, agree as follows:

1     **Article I.         Representations and Warranties of the Members.**

2  
3     As of the date hereof, each of the Members represents and warrants to the other Members and  
4     the Sector that:

5  
6     **Section 1.01.   Sector Qualification.**

7     To be eligible and recognized, a sector must include three or more persons, none of whom have  
8     ownership interests in at least two other persons' vessels in the sector. Having an ownership  
9     interest in a permit/vessel includes, but is not limited to, persons or entities who are  
10    shareholders, officers, or partners, in a corporation owning a permit/vessel; who are partners to  
11    a permit/vessel owner; or who, in any way, partly own a permit/vessel. Other factors that may  
12    indicate ownership interest include whether a permit/vessel owner derives any financial benefit,  
13    or exercises any control over, another permit/vessel. NMFS interprets permit ownership as  
14    including permits in Confirmation of Permit History ("CPH"). Mooncusser Sector, Inc. is intended  
15    for lease-only activity under this operations plan, and membership does not include active fishing  
16    entities. The Sector's compliance with the ownership provision is included in Exhibit E.

17  
18    **Section 1.02.   Eligibility.**

19    To be eligible for participation in the Sector each Member must have been issued a valid limited  
20    access multispecies permit with or without documented landings of regulated species between  
21    May 1, 1996, and April 30, 2007, which are the 1996 through 2006 fishing years (such period of  
22    time shall hereinafter be referred to as the "Qualifying Period"). Those Sector permits that  
23    committed to either the GB Fixed Gear Sector or the GB Cod Hook Sector by March 1, 2008 for  
24    the 2010 FY will qualify with landings of GB cod during FY 1996-FY 2001; all other Sector permits  
25    will qualify under the previously-described Qualifying Period. Each such permit which the  
26    Member intends to enroll in the Sector is listed below such Member's name on the signature  
27    pages and Exhibit B hereto (each, a "Permit"). Notwithstanding the list of Participating Vessels  
28    set forth on the signature pages hereto, for purposes of this Agreement, "Participating Vessel"  
29    shall mean the vessel to which a Member's Permit applies at any given time.

30  
31  
32    **Section 1.03.   Organization and Authority.**

33    Each Member (i) to the extent that it is an entity, is duly organized, validly existing and in good  
34    standing in its state of organization and (ii) has all authority, corporate or otherwise, to enter into  
35    this Agreement on its own behalf and on behalf of the Participating Vessels that it represents.  
36    This Agreement constitutes a legally valid and binding obligation of each Member, enforceable  
37    against such Member in accordance with its terms. Each of the Members represents that its  
38    Participating Vessel(s) and Permit(s) have no sanctions or other restrictions against them that  
39    would prevent such Participating Vessels and Permits from enrolling in the Sector and/or  
40    complying with the terms of this Agreement.

41  
42  
43    **Article II.       Membership.**

1 **Section 2.01. Voluntary Membership.**

2 Participation in the Sector is completely voluntary among the Members, their Permits and the  
3 related Participating Vessels.  
4

5 **Section 2.02. Scope of Membership Obligations.**

6 The obligations of the Members set forth in this Agreement shall only apply to the Permits and  
7 Participating Vessels and not to any other permits or vessels owned by the Members that are not  
8 enrolled in the Sector pursuant to the terms hereof to the extent that such Permits or  
9 Participating Vessels are fishing commercially (i) with gear that is capable of harvesting regulated  
10 multispecies managed under the Plan. Notwithstanding the foregoing, each Member is required  
11 to provide the Manager with the information requested in Exhibit D, including but not limited to  
12 a list of all federal and state permits assigned to participating vessels. Sector Members, from time  
13 to time, may be permitted to participate in SAPs or any other pilot program, or to access any  
14 closures as authorized by NMFS. It may be necessary to expand the scope of the membership  
15 obligations hereunder, in order to ensure that the Sector and its Members are in compliance with  
16 the rules and regulations. Therefore, the Members hereby agree to execute any amendments or  
17 supplements to this Agreement, which may reasonably be requested by the Sector or the Sector  
18 Manager in order to comply with the rules and regulations, including, without limitation, any  
19 amendments or supplements that expand the scope of the membership obligations hereunder  
20 to apply to vessels and/or permits that are not enrolled in the Sector.  
21

22 **Section 2.03. Length of Commitment.**

23 Each Member hereby agrees to cause each of its Permits and any related Participating Vessels to  
24 remain enrolled in the Sector for the entire fishing year following the date on which such Member  
25 enrolled in the Sector (the "Commitment Period"); provided, however, that if NMFS shall not  
26 approve the Sector's Operations Plan and Agreement, as the same may be amended, for any  
27 fishing year during a Member's Commitment Period, then the obligation of such Member under  
28 this Section 2.03 shall terminate on the last day of the last fishing year for which the Sector's  
29 Operation Plan and Agreement shall have received approval from NMFS. Each Member further  
30 agrees that if its Permit leaves the Sector for any reason during the Commitment Period, (i) such  
31 Member shall be subject to penalties as described on the Schedule of Penalties (as hereinafter  
32 defined) and (ii) such Member, its Permit, any permit in which the Member has a business  
33 interest, and the related Participating Vessel shall be ineligible to participate in the Sector for a  
34 period of five (5) years following the date of such departure from the Sector. This provision  
35 should be considered exclusive to the administration of the Sector and would therefore not be  
36 subject to NMFS enforcement.  
37

38 Each Member acknowledges and agrees that 50 CFR 648.87 requires that each of its Permits and  
39 the related Participating Vessels must remain in the Sector for the entire fishing year in which  
40 such Permits and/or Participating Vessels are enrolled in the Sector, and that each Member's  
41 Participating Vessels may not fish outside the Sector under a multispecies DAS program during  
42 any fishing year in which its Permits and/or Participating Vessels are enrolled in the Sector.  
43 Notwithstanding the foregoing requirements, a Member that executes this Agreement prior to  
44 the time the final Annual Catch Entitlement ("ACE") is provided to the Sector by NMFS, may

1 terminate the Agreement without penalty within fourteen (14) days of the initial ACE has been  
2 promulgated by NMFS and/or the Council unless otherwise prohibited by Sector policy. This  
3 provision should be considered exclusive to the administration of the Sector and would therefore  
4 not be subject to NMFS enforcement.  
5

6 **Section 2.04. New Members.**

7 The owner of a permit that is eligible under the criteria set forth in Section 1.01 and 1.02 hereto,  
8 but that is not enrolled as a Member (and/or whose permit is not so enrolled) may apply to the  
9 Board (as hereinafter defined) for membership in the Sector. Such application shall be made in  
10 writing and shall include evidence of eligibility. The Board shall, in its reasonable discretion,  
11 determine whether the applicant shall be admitted as a Member of the Sector and/or its permit  
12 included as a Permit. Notwithstanding the foregoing, no such admission shall be effective until  
13 such new Member has agreed in writing to be bound by, and to cause its Permit and/or  
14 Participating Vessel to comply with, the terms of this Agreement, and until the provisions of this  
15 Agreement shall have been amended or modified to reflect such additional Member, Permit  
16 and/or Participating Vessel. This provision should be considered exclusive to the administration  
17 of the Sector and would therefore not be subject to NMFS enforcement.  
18

19 **Section 2.05. Permit Transfers.**

20 Each Member agrees that so long as it is a party to this Agreement, such Member (i) shall not  
21 have the authority to sell, lease or transfer the ownership of its Permit to a party that is not or  
22 does not agree in writing to be bound by this Agreement for the remainder of the fishing year in  
23 which such sale, lease or transfer is to occur, (ii) shall not transfer, lease or assign any DAS  
24 allocated to its Permit by NMFS to any permit not enrolled in an approved sector, and (iii) shall  
25 comply with the right of first refusal provisions of Section 2.06 hereof prior to the consummation  
26 of any proposed sale, lease or transfer permitted hereunder. To the extent that a Member sells,  
27 leases or transfers its Permit to another individual or entity (a "Transferee") in compliance with  
28 the foregoing sentence, then (a) such Transferee shall only be permitted to participate in the  
29 Sector for the remainder of the fishing year in which the transfer occurred (the "Transfer Year")  
30 and (b) prior to the commencement of the fishing year immediately following the Transfer Year,  
31 the Transferee must apply for admission to the Sector pursuant to the provisions of Section 2.04  
32 hereof in order to be admitted to the Sector as a Member. For the avoidance of all doubt, for  
33 the purposes of calculating a Member's Commitment Period under Section 2.03 hereof, no  
34 portion of a Transfer Year shall be included in such calculation.  
35

36 **Section 2.06. Right of First Refusal – Permanent Permit Transfer.**

37 In the event that any Member (a "Transferring Member") at any time proposes to sell or transfer  
38 (a "Transfer") its Permit to any proposed Transferee who shall make a good faith, bona fide  
39 written offer therefore (a "Bona Fide Offer"), then the Transferring Member must notify sector  
40 members of the intent of sale, but is not subject to right of first refusal. In declaring their intent  
41 to sell, transfer or lease, the member shall (i) state the identity of the prospective Transferee, (ii)  
42 state the amount of consideration for the Permit and the material terms and conditions upon  
43 which the proposed Transfer is to be made, (iii) represent that the Bona Fide Offer is an actual  
44 bona fide offer, and (iv) include a copy of any written proposal, letter of intent or other

1 agreement relating to the Bona Fide Offer. This provision should be considered exclusive to the  
2 administration of the Sector and would therefore not be subject to NMFS enforcement.

3  
4 **Section 2.07. Membership Dues.**

5 The Sector may, to the extent necessary for the payment of the costs and expenses associated  
6 with the administration and management of the Sector (including but not limited to the payment  
7 of the Manager's salary and payment of outstanding loans and debts), require the payment by  
8 the Members of annual membership dues and/or poundage fees. Such annual membership dues  
9 and/or poundage fees shall be fixed by resolution of the Board prior to the commencement of  
10 the applicable fishing year or at such other time as the Board may deem necessary or appropriate.  
11 This provision should be considered exclusive to the administration of the Sector and would  
12 therefore not be subject to NMFS enforcement.

13  
14 **Section 2.08. Disclosure Agreement.**

15 Pursuant to section 402(b)(1)(F) of the Magnuson-Stevens Fishery Conservation and  
16 Management Act, 16 U.S.C. § 1881a(b)(1)(F), the undersigned hereby authorizes the release to  
17 the Manager, or designated sector employee(s), of the Mooncusser Sector, Inc of information  
18 that may be or is considered to be confidential or privileged by the Magnuson-Stevens Act or  
19 other federal law regarding the catch of various species of fish associated with the limited access  
20 Northeast multispecies permit with the Moratorium Right Identifiers (MRIs) enrolled in the  
21 Sector submitted to the National Marine Fisheries Service that the undersigned has authority to  
22 access. This information includes data required to be submitted or collected by NMFS, on an  
23 individual MRI and/or aggregated scale, including but not limited to days-at-sea allocation and  
24 usage, vessel trip reports, dealer reports, NEFOP data, catch and landings history data for all  
25 species harvested by the vessel/MRI, Sector at-sea monitoring data, protected species  
26 takes/interactions, enforcement data, vessel baseline data (length, horsepower, etc), VMS  
27 information, and all other information associated with the vessel, MRI #, and/or permit records.  
28 In addition, this information includes data for species not managed under the multispecies FMP.

29  
30 All confidential Sector data may be released to the Sector Manager, or designated sector  
31 employee(s). This statement applies to all confidential data for a two-year time period  
32 encompassing FYs 2019 and 2020.

33  
34 **Article III. ADMINISTRATION**

35  
36 **Section 3.01. Sector Manager.**

37 The Board of Directors (the "Board") of the Sector shall appoint a manager of the Sector (the  
38 "Manager"), which Manager shall have the authority to manage the day-to-day business of the  
39 Sector and to act as its designated agent for service of process. The Sector currently plans to  
40 maintain Amanda Cousart as Manager for FYs 2019 and 2020.

41  
42 **Section 3.02. Manager Authority.**

43 The Manager shall have the authority (i) to monitor the activities of the Members and the  
44 Participating Vessels and to take such other actions as may be necessary to ensure compliance

1 by the Members and their Permits and Participating Vessels with this Agreement and other  
2 Sector requirements as may be adopted under the terms of this Agreement or the Sector's  
3 Bylaws, as well as applicable laws, rules and regulations, and (ii) subject to the authority of the  
4 Board or a committee delegated thereby pursuant to Section 3.03 of this Agreement, the Sector's  
5 Bylaws or any other agreement relating to the Sector's internal governance, to enforce this  
6 Agreement, including specifically, without limitation, the authority to impose penalties set forth  
7 in the Schedule of Penalties (as hereinafter defined). The Manager shall also act as the liaison  
8 between NMFS and the Sector.

9  
10 **Section 3.03. Infractions Committee.**

11 The Board shall appoint an Infractions Committee (the "Committee") to ensure fair, consistent  
12 and appropriate enforcement of this Agreement, the Harvesting Rules, the DAS (as hereinafter  
13 defined) requirements set forth on Exhibit C hereto, the Plan, the Framework Adjustment and  
14 other Sector requirements as may be adopted under the terms of this Agreement or the Sector's  
15 Bylaws. The Committee shall be comprised of three (3) Members of the Sector, but not more  
16 than five (5). The Committee shall prepare and recommend to the Board for its approval a  
17 schedule of penalties, which shall be similar in form to Exhibit A hereto (the "Schedule of  
18 Penalties"), for any unauthorized fishing activities (whether under applicable laws, rules and  
19 regulations or otherwise) and for violations of this Agreement, the Harvesting Rules, the DAS (as  
20 hereinafter defined) requirements set forth on Exhibit C hereto, the Plan, the Framework  
21 Adjustment and other Sector requirements as may be adopted under the terms of this  
22 Agreement or the Sector's Bylaws. The Board shall review and approve any Schedule of Penalties  
23 prepared and recommended by the Committee prior to the commencement of the fishing year  
24 for which such Schedule of Penalties has been prepared. If such a decision is not made prior to  
25 the start of the fishing year, the previous year's Schedule of Penalties will remain in place. In  
26 addition, the Committee, on its own or at the request of a Manager or Member pursuant to  
27 Section 3.04 hereof, shall have the authority to take any number of enforcement measures  
28 against the Members for the non-payment of membership dues and/or poundage fees. Such  
29 enforcement measures may include requesting expulsion of the violating Member under Section  
30 7.02 and issuing a "stop fishing" order against such Member.

31  
32 **Section 3.04. Procedures for Investigations.**

33 In addition to the Manager's authority to impose penalties under the Schedule of Penalties  
34 pursuant to Section 3.02 hereof, the Manager may, on his own, and shall, at the request of a  
35 Member, request that the Committee conduct an investigation of possible infractions of the  
36 Agreement, the Harvesting Rules, the Plan, the Framework Adjustment or other Sector  
37 requirements as may be adopted under the terms of this Agreement or the Sector's Bylaws, by  
38 calling a meeting of the Committee and presenting it with the information that is the basis for  
39 the Manager's or Member's opinion that an infraction occurred. The Committee shall operate  
40 as a "blind" committee, such that the identity of the Member, Permit and/or Participating Vessel  
41 under consideration shall only be known to the Manager. The Committee shall assign a number  
42 of its members, which constitutes no more than 50% of the Committee, and the Manager, to  
43 investigate the matter further and to recommend action, if any, to the full Committee. Such  
44 investigation assignments shall be rotated. The Member being investigated may not be part of

1 the investigation Committee. If, upon the conclusion of such investigation, the Committee  
2 determines by an affirmative vote of a majority (51%) of its members that a violation of this  
3 Agreement, the Harvesting Rules, the Plan, the Framework Adjustment or other Sector  
4 requirements (as may be adopted under the terms of this Agreement or the Sector's Bylaws) has  
5 occurred, it may, and is hereby given the authority to (in addition to the imposition of any  
6 penalties prescribed in the Schedule of Penalties), invoke sanctions, ranging from letters of  
7 warning to reductions in allocation of days-at-sea allotted ("DAS") to the Member, its Permits  
8 and its Participating Vessels by the Sector, allocation seizures, or issue stop fishing orders. The  
9 Committee shall exercise all reasonable efforts to ensure that penalties and settlements are  
10 commensurate with the nature and extent of the violation, are designed to further the purposes  
11 of the Plan, the Framework Adjustment, Amendment 13 and Amendment 16, and are uniform  
12 with those reached in similar circumstances. All appeals from such Committee action shall be  
13 taken in accordance with Section 7.04 hereof. Each of the Members agrees to cooperate fully  
14 with the Manager and the Committee in such investigations and procedures (including  
15 cooperation with any requests for information or data that may be made by the Manager or the  
16 Committee).

#### 17 Section 3.05. Sector Reporting Requirements.

18 Within 60 days of the end of the fishing year or at a time determined by NMFS, the Manager shall  
19 prepare and submit to the Council and NMFS an annual year-end report on the fishing activities  
20 of its Members, including the number of Sector vessels that fished for regulated groundfish, the  
21 permit and MRI numbers of those vessels, the number of vessels that fished for other species,  
22 the method used to estimate in-season discard rates as provided by NMFS, the landing ports used  
23 by Sector vessels while landing regulated groundfish, the harvest levels of all regulated  
24 groundfish species by Sector vessels (landings and discards by gear type), any enforcement  
25 actions taken against the Members, their Permits or Participating Vessels, and any other  
26 information requested by the Regional Administrator.

27  
28  
29 In addition to the annual report, the Manager or his designee shall, on a weekly, or daily, basis,  
30 transmit to NMFS the following reports:

31  
32 Sector Manager ACE Status Report: The ACE Status Report provides the means for sector  
33 managers to report their ACE status calculations. This allows NMFS to cross-check totals, as  
34 stipulated in Amendment 16. Additionally, the Sector Manager Daily ACE Status Report provides  
35 the means for sector managers to report their ACE status calculations on a daily basis if the  
36 "trigger point" (threshold) has been reached in the current fishing year (see below).

37  
38 Sector Manager Detail Report: The Sector Manager Detail Report provides information down to  
39 the sub-trip level about each sector trip for a given week, regardless of the completeness of the  
40 data. The information includes stock, gear, mesh categories, landing amounts, discards, and total  
41 catch.

42  
43 Sector Manager Trip Issue Report: The Sector Manager Trip Issue Report provides information  
44 about sector trips for a given week that have enforcement or other issues. Weekly reports must

1 include any enforcement or reporting compliance issues, including violations of Operations Plans  
2 (exclusive of defined administrative provisions), violations of regulations, or general problems  
3 with monitoring or sector operations during the reporting period. The Sector Manager Trip Issue  
4 Report allows the sector to briefly describe to NMFS any enforcement or reporting compliance  
5 issues, violations of sector operations plan and regulations, and general problems with  
6 monitoring or sector operations during the reporting period. The sector manager submits one  
7 Issue Report per reporting period.

8  
9 The NMFS JIRA issue tracking application will be used to report all data quality issues to the  
10 appropriate personnel for research and correction activities. Provided the issues are directed to  
11 the appropriate personnel in a timely manner and that claimed corrections are actually  
12 completed to the satisfaction of the Sector, JIRA may allow issues to be well-monitored  
13 throughout the correction process.

14  
15 Such administrative provisions include but are not limited to internal Sector reporting and  
16 financial requirements, and general violations of internal Sector agreements/policies.

17  
18 The reporting frequency for the Sector Manager's ACE Status Report will be increased to daily  
19 when 90% of any of the Sector's ACEs is reached. The Sector Manager, or a designated  
20 representative, must notify NMFS immediately by email if the threshold that triggers daily  
21 reporting has been reached. During the period when a sector has reached or exceeded 90% of  
22 any of its ACEs, a daily ACE Status Report must be submitted only on a day when a member vessel  
23 lands, or when the sector engages in an ACE transfer of a stock that is exceeding the 90%  
24 threshold. An alternative threshold for triggering daily reporting may be implemented if agreed  
25 upon by the Sector and NMFS. The Sector Manager, or a designated representative, must notify  
26 NMFS immediately by email if 100% of any ACE is achieved or exceeded. In the event that any of  
27 the Sector's ACEs are reached, the Sector Manager will issue a "stop fishing" order against all  
28 Members for the appropriate Broad Stock Area until such time as more ACE can be acquired.

29  
30 The Manager will submit required reports using the format and procedure prescribed by NMFS.

31  
32 More detailed information on the requirements for the weekly reports can be found in the  
33 Fisheries Data Services Division (FDSD) Publication: "Preparing the Sector Manager Report,"  
34 available online at [www.nero.noaa.gov/sfd/SectorManagers.html](http://www.nero.noaa.gov/sfd/SectorManagers.html)

### 35 36 37 **Section 3.06. Inshore Gulf of Maine (GOM) Declaration Program.**

38 Contingent upon implementation and enforcement of this provision by 100% of the additional  
39 approved sectors in FYs 2019 and 2020, Members agree to the following:

- 40 1. For the purpose of this declaration, the portion of Broad Stock Area (BSA) 1 West of 70:15  
41 to the shoreline north to the Maine Coast and South to Cape Cod would be defined as  
42 "Inshore GOM."
- 43 2. When an observer/monitor is onboard:
  - 44 ○ The Members may declare and fish in all Broad Stock Areas (BSAs), including the



portion of BSA1 defined as the Inshore GOM defined in this section, and fishing activity may occur in any declared BSA.

3. When an observer/monitor is not onboard:

- If the Members intend to fish West of the 70:15 in the area described above as the Inshore GOM, at any time during the trip, the Member must declare BSA 1 only, and the Member may not conduct any fishing activity outside of the area defined as BSA 1 for the entire trip.
- If the Member declares more than one BSA on the trip, the Member is prohibited from conducting fishing activity West of the 70:15 in the area described above as the Inshore GOM and the Member must indicate acknowledgement of this restriction by transmitting a Trip Start Hail, through their VMS unit or third party software, and check the “b. Inshore Gulf of Maine” from the list of Sector Ops Plan Provisions in the Trip Start Hail.

#### **Article IV. ANNUAL CATCH ENTITLEMENT / QUOTA MONITORING.**

##### **Section 4.01. Sector Allocation.**

The Sector will be allocated an ACE of all allocated regulated groundfish stocks pursuant to Amendment 16. Such allocation shall include stocks that are managed under the terms of the US/CA Resource Management Understanding (“EUSCA”), as applicable. For those permits that committed to the GB Cod Fixed Gear Sector or GB Cod Hook Sector as of March 1, 2008, the proportional Sector ACE will be calculated based on landings of GB cod during the period FY 1996-FY 2001, divided by the total landings of GB cod during that period. For all other Sector permits, the proportional ACE will be calculated based on the landings of GB cod during the period FY 1996-FY 2006, divided by the total landings of GB cod during that period but proportionately reduced by the amount of the permits that received PSCs based on landings of GB cod during the period FY 1996-FY 2001. Sector ACE for additional groundfish stocks (i.e. not GB cod) allocated by Amendment 16 will be based on the landings history of each permit during the time period FY 1996-FY 2006.

##### **Section 4.02. Annual Distribution.**

Each Member hereby acknowledges and agrees that the ACE of all stocks, as authorized by Amendment 16, the Framework Adjustment and NMFS to the Sector, shall be harvested in accordance with the Harvesting Rules, which are set forth as Exhibit C hereto. Each Member agrees to, and agrees to cause its Participating Vessels to, exercise all commercially reasonable efforts to (i) assist in harvesting an amount of regulated groundfish stocks allocated by Amendment 16 equal to, but not greater than, the ACE for each stock, as further set forth on Exhibit C, unless additional ACE can be acquired, and (ii) to comply with all of the other Sector requirements set forth on Exhibit A and Exhibit C hereto. If at any time during the fishing year the Board determines that the ACE may not be fully harvested, the Board shall, subject to the provisions of Section 4.02, redistribute the ACE, through weekly quota targets or otherwise, to ensure that the ACE is fully harvested. In addition, to the extent that the ACE is adjusted upward or downward after the commencement of any fishing year, whether by the authority of NMFS,

1 by framework adjustment or by other regulatory action, the Board shall have the authority to  
2 redistribute the adjusted ACE through DAS, weekly quotas or otherwise, to ensure that the  
3 adjusted ACE is properly harvested by the Members.

4  
5 Prior to the commencement of the FY, the Board shall make an initial distribution of the Sector's  
6 ACE to Members based on the Members' fishing history. After the initial allocation of individual  
7 ACE is made, and at any time during the fishing year, Members are free to pool, transfer, or lease  
8 any ACE attributed to their Permit(s) to any other Member subject to advance approval of  
9 Manager. Such requests shall be made in writing to the Manager in a timely manner. This  
10 provision should be considered exclusive to the administration of the Sector and would therefore  
11 not be subject to NMFS enforcement.

12  
13 Members with or without ownership interests in multiple Permits may consolidate individual ACE  
14 to harvest from a single or fewer vessels. Such consolidation shall be approved by the Manager  
15 prior to validation, and requests shall be made to the Manager in a timely manner. ACE from  
16 Vessels designated as "Lease Only" (Exhibit D) may be leased by Vessels designated as "Active  
17 Commercial Groundfish." Vessels that plan to target species other than allocated groundfish (i.e.  
18 Spiny Dogfish, Winter Skate) may redistribute ACE to those Vessels that plan to target allocated  
19 groundfish, while maintaining enough ACE to cover actual and assumed non-target interactions.

20  
21 In FY2018, approximately 0% of the permits currently enrolled in the Sector for FYs 2019 and  
22 2020 are attached to vessels actively fishing for NE multispecies. For FYs 2019 and 20, the Sector  
23 has 40 permits currently enrolled. Of those, 0 permits affiliated with 0 vessels are anticipated to  
24 actively fish for NE groundfish in FYs 2019 and 2020. While these numbers may change if  
25 additional members join, the Sector expects that, compared to FY 2018, there would be little to  
26 no change from the consolidation that previously occurred among Members. The member  
27 permits that are not attached to active NE multispecies vessels in FYs 2019 and 2020 are the same  
28 permits that did not fish in FY2018. In most cases, a Member who owns multiple permits fished  
29 the ACE (or DAS if in the Common Pool) of all those permits on a single hull and will now continue  
30 to fish the ACE contributed by all those permits on the same single hull, resulting in little-to-no  
31 additional consolidation.

#### 32 33 Section 4.03. Reserve.

34 Each Member agrees that the Board shall, in its sole discretion, establish a reserve for each  
35 allocated stock in order to ensure that the Sector remains in compliance with its ACE limits;  
36 provided, however, that such reserves shall not exceed twenty (20) percent of any ACE. The  
37 amount of the reserve shall be deducted at the beginning of the fishing year from each Member's  
38 permit on a pro rata basis once ACE has been distributed to the Members. This provision should  
39 be considered exclusive to the administration of the Sector and would therefore not be subject  
40 to NMFS enforcement.

#### 41 42 Section 4.04. Release of Reserve.

43 If the Board, subsequent to the establishment of a reserve pursuant to Section 4.03 hereof,  
44 determines that the ACE, as adjusted pursuant to Section 4.03, will be fully harvested by the

1 Participating Vessels, the Board shall, at its discretion, release and authorize the harvesting of  
2 the reserve so as not to exceed the ACE for any species unless additional ACE can be acquired.  
3 This provision should be considered exclusive to the administration of the Sector and would  
4 therefore not be subject to NMFS enforcement.

5  
6 **Section 4.05. ACE Transfer.**

7 Members acknowledge that ACE transfer from the Sector to another sector will only be carried  
8 out in a manner authorized by NMFS and in accordance with this Agreement. If a Member seeks  
9 to transfer ACE attributed to its permit to another sector, that Member shall submit an ACE  
10 transfer request to the Manager at least seven (7) days in advance of the desired transfer  
11 date. Transfer requests to be completed sooner than seven (7) days may be accepted by the  
12 Manager and approved on a case-by-case basis. Such transfer request must receive approval of  
13 the Board and will only be transmitted to NMFS after such Board approval. An ACE transfer from  
14 the Sector will only be finalized after NMFS approval and all parties are notified. Any ACE transfer  
15 must adhere to any internal transfer policies. This provision should be considered exclusive to  
16 the administration of the Sector and would therefore not be subject to NMFS enforcement.

17  
18 **Section 4.06. ACE Carryover.**

19 If the Sector expects to have unused ACE at the end of the fishing year, an amount not to exceed  
20 ten (10) percent of the original Sector ACE may be carried forward into the next fishing year,  
21 unless otherwise determined by NMFS. Prior to such a carryover, the Board shall determine  
22 whether unused ACE is needed to cover existing or potential ACE overages.

23  
24 **Section 4.07. ACE Overage.**

25 The Sector is responsible for preventing ACE overages during the fishing year. The Sector must  
26 cease all fishing operations in the appropriate stock area when the Sector achieves or exceeds  
27 any ACE. The Sector may acquire additional ACE to resume fishing in that stock area and to avoid  
28 an ACE deduction for the following fishing year. NMFS may find Members and the Sector jointly  
29 and severally liable for, among other violations, any ACE overage and may assess penalties  
30 accordingly. If ACE is exceeded, the overage shall be deducted from the following year's ACE.

31  
32 An ACE overage is defined as the catches by Sector vessels that exceed the ACE possessed by the  
33 Sector after considering all ACE transfers that take place for the current FY (including those that  
34 occur up to 2 weeks into the following FY, as allowed by the NMFS ACE transfer provisions).

35  
36 The Member is responsible for preventing individual ACE overages during the fishing year. The  
37 Member must cease all fishing operations in the appropriate stock area when the Member  
38 achieves or exceeds any ACE, unless otherwise determined by the Board. The Member may  
39 acquire additional ACE to resume fishing in that stock area and to avoid an ACE deduction for the  
40 following fishing year. If any Member exceeds its allocation of ACE, it may be subject to penalties  
41 in accordance with Exhibit A and may have its future allocation reduced by an amount equal to  
42 the overage or more. This provision should be considered exclusive to the administration of the  
43 Sector and would therefore not be subject to NMFS enforcement.

1 If a Member that causes the Sector to exceed any ACE leaves the Sector the following year, any  
2 reduction in the Sector's ACE or reduction in DAS will follow that Member's permits that left the  
3 Sector in the form of DAS reductions if the Member joins the Common Pool, or pound-for-pound  
4 ACE reduction in a new sector. Additional penalties may also be invoked by the Board in  
5 accordance with Exhibit A.

6  
7 NMFS will withhold 20 percent of each ACE at the beginning of the fishing year for a period of 61  
8 days to allow time to process any year-end transfers of ACE and to determine whether any  
9 reductions in ACE are necessary due to overage in the previous year, unless otherwise  
10 determined by NMFS.

#### 11 12 **Section 4.08. Available ACE.**

13 For a Member to be able to fish commercially with any gear capable of harvesting regulated  
14 groundfish species, both the Member and the Sector must have available ACE. Alternately, the  
15 Member may draft an internal ACE trade agreement with another Member to "cover" harvested  
16 ACE. This provision should be considered exclusive to the administration of the Sector and would  
17 therefore not be subject to NMFS enforcement.

18  
19 Further, ACE must be available to account for interactions with allocated regulated groundfish  
20 stocks in non-target fisheries in which groundfish catch applies to the Sector's ACEs, including  
21 directed monkfish and skate trips, which are likely to be taken by Members. All monitoring and  
22 reporting requirements will be maintained in non-target fisheries to account for available ACE.

#### 23 24 **Section 4.09. Discards.**

25 The Sector Manager (or his/her designated representative) will derive stock-specific discards for  
26 each trip. If the trip is observed by either an at-sea monitor or a Northeast Fisheries Observer  
27 Program (NEFOP observer), discards will be derived based on data collected during that trip and  
28 will account for all hauls (observed and unobserved) on that trip. If the trip is not observed,  
29 discards will be derived using the NOAA Fisheries-provided discard rate resulting from the NOAA  
30 Fisheries method to estimate "in-season" discard rates, which may not include data from  
31 research trips or Sector trips using certain exemptions.

### 32 33 34 **Article V. VESSEL OPERATIONS AND EXEMPTIONS / GEAR REQUIREMENTS.**

#### 35 36 **Section 5.01. Proof of Sector Membership.**

37 Each Member agrees that its Participating Vessels shall maintain on-board at all times a Letter of  
38 Authorization from NMFS verifying such Participating Vessels' participation in the Sector, contact  
39 information for the Manager, and a copy of the Operations Plan and Agreement in effect for the  
40 current fishing year, except when such Participating Vessels are fishing as charter/party vessels.  
41 Upon approval, each sector vessel will be issued a Letter of Authorization (LOA) specifying the  
42 exemptions granted. Vessels must comply with all requirements stipulated in the LOA and all  
43 applicable Federal regulations and laws not specifically exempted in the LOA.

1 **Section 5.02. Gear Restrictions.**

2 Each Member agrees that its Participating Vessels shall not fish for regulated groundfish species  
3 with any gear other than rod-and-reel/(jigs), demersal longline, handgear, sink gillnets, or otter  
4 trawl.  
5

6 **Section 5.03. Stock Areas.**

7 Each Member agrees that it shall not fish commercially with gear that is capable of harvesting  
8 regulated groundfish species unless the Member has available ACE for all stocks for the area  
9 being fished or such an agreement as mentioned above. To the extent that ACE availability  
10 allows, Sector members would fish within the entire range of the Northeast Multispecies  
11 Complex – the Gulf of Maine Regulated Mesh Area (RMA), the Georges Bank RMA, and the  
12 Southern New England RMA. Primary fishing effort would occur in the Georges Bank RMA, with  
13 secondary effort occurring in the Gulf of Maine RMA and Southern New England RMA.  
14

15 **Section 5.04. Operators.**

16 Each Member agrees to ensure that any operators of its Participating Vessels fully comply with  
17 the obligations and restrictions set forth in this Agreement as they may be modified from time  
18 to time by the Board. Each Member further agrees to accept responsibility hereunder for the  
19 actions of any such operators that result in a violation of this Agreement. This provision should  
20 be considered exclusive to the administration of the Sector and would therefore not be subject  
21 to NMFS enforcement.  
22

23 **Section 5.05. Designated Landing Ports.**

24 To enable the Members and the Manager to monitor, observe and verify catches, each Member  
25 agrees that each of its Participating Vessels will offload catch in the following designated ports:

- 26 • Aunt Lydia's Cove, Chatham, MA;
- 27 • Stage Harbor, Chatham, MA;
- 28 • Saquatucket Harbor, Harwich, MA;
- 29 • Allen's Harbor, Harwich, MA;
- 30 • Wychmere Harbor, Harwichport, MA;
- 31 • Sesuit Harbor, Dennis, MA;
- 32 • Gloucester, MA;
- 33 • Barnstable Harbor, Barnstable MA;
- 34 • Hyannis, MA;
- 35 • Plymouth Harbor, Plymouth, MA;
- 36 • Provincetown, MA;
- 37 • Sandwich, MA;
- 38 • Scituate, MA;
- 39 • Woods Hole, MA;
- 40 • Portland, ME.

41  
42 **Section 5.06. Landing Port Exceptions.**

43 Landings in ports, remote or otherwise, other than those listed in Section 5.05 hereof are

permitted on a temporary, case-by-case basis, for the purpose of promoting safety at sea and protecting vessel and crew. Should a Member need to enter port somewhere other than a designated landing port, the Member shall contact the Manager through email or phone as soon as it is safe to do so. The Manager shall notify NOAA fisheries via email of all landing port exceptions, which would include but would not be limited to the number of landing port exemptions granted to a vessel more than one time per month and the anticipated timeframe for which landing port exemptions are to be granted if that timeframe is greater than two days, including until further notice.

**Section 5.07. Observed Offloading.**

Each Member agrees that, in order to enhance the monitoring and enforcement of the provisions in this Agreement, the Manager may request that an observer be present during offloading operations. If such a request is made, each Member agrees not to permit its Participating Vessel(s) to offload retained catch until the Manager or his designee is present. In such instance, a contract will be executed and arrangements will be made between a provider and the sector, independent from existing NEFOP observer and ASM monitoring programs.

**Section 5.08. Advanced Notice of Offloading.**

Multispecies hauls are required to be sent for every groundfish trip. Vessels shall notify the Manager and/or NMFS Office of Law Enforcement (“OLE”) through the vessel’s Vessel Monitoring System (“VMS”) or other means at least 6 hours prior to landing for trips greater than 6 hours in length. For trips less than 6 hours in length or occurring within 6 hours of port, the estimated time of arrival to port will be provided in the trip start haul, if required. The trip end haul will be sent upon completion of the last tow or haul with required updated information. An alternative timing for the trip end haul may be implemented if agreed upon by the Sector and NOAA fisheries.

**Section 5.09. Redirection of Effort.**

The Members acknowledge that redirection of fishing effort onto stocks not managed under the Plan may occur as a result of insufficient ACE for a directed fishery on regulated groundfish species, and/or additional opportunities to target an abundance of non-regulated-groundfish species. Any redirection of effort into other fisheries where non-specified gear is used will be closely monitored throughout the year and reported in the Annual Report. Through the reporting requirements contained in this Agreement, the Manager will monitor any redirection of effort that may occur and include that information in the Manager's reports to NMFS. Members that violate this provision will be subject to penalties in accordance with Exhibit A.

During FY 2017, none of these sector vessels switched fishing efforts into other fisheries. The members were located in other sectors and operated in a lease-only capacity.

During FY 2018, none of these sector vessels switched fishing efforts into other fisheries.

During FY 2019 and 2020, the Sector anticipates that no redirection of effort will take place.

1  
2 **Section 5.10 Exemptions.**

3 All sectors will be universally exempt from the following regulated groundfish management  
4 measures approved in Amendment 16:

- 5 • **Trip limits on all stocks for which a sector receives an ACE.**
- 6 • **Seasonal closed areas (at present, the only seasonal closure is in May on Georges Bank).**
- 7 • **All groundfish DAS restrictions.**
- 8 • **GOM Cod Protection Closures**
  - 9 a. **Vessels are exempt from GOM Cod Protection Closures IV (October) and V**  
10 **(March), but must comply with GOM Cod Protection Closures I (May), II (June),**  
11 **and III (November, December, and January).**
- 12 • **Additional mortality controls adopted by Amendment 16.**
- 13 • **Requirement to use 6.5-inch mesh in the cod-end in haddock separator trawl/Ruhle**  
14 **trawl when targeting haddock in the Georges Bank RMA.**

15  
16 The Sector will further be exempt from the following regulated groundfish management  
17 measures:

- 18  
19 1 120-day block out of the fishery required for Day gillnet vessels
- 20  
21 2 20-day spawning block out of the fishery required for all vessels
- 22  
23 3 Day gillnet limit outside the Gulf of Maine
- 24  
25 4 Prohibition on a vessel hauling another vessel's gillnet gear
- 26  
27 5 Limits on the number of gillnets that may be hauled on Georges Bank when fishing under a  
28 groundfish/monkfish day-at-sea
- 29  
30 6 Limits on the number of hooks that may be fished
- 31  
32 7 DAS Leasing Program Length and Horsepower Restrictions
- 33  
34 8 Prohibition on discarding
- 35  
36 9 Gear requirements in the Eastern U.S./Canada Area
- 37  
38 10 Prohibition on a vessel hauling another vessel's hook gear
- 39  
40 11 Requirement to declare intent to fish in the Eastern U.S./Canada Haddock SAP and the CA II  
41 Yellowtail Flounder/Haddock SAP prior to leaving the dock
- 42  
43 12 Seasonal Restrictions for the Eastern U.S./Canada Haddock SAP

1  
2 13 Seasonal Restrictions for the CA II Yellowtail Flounder/Haddock SAP

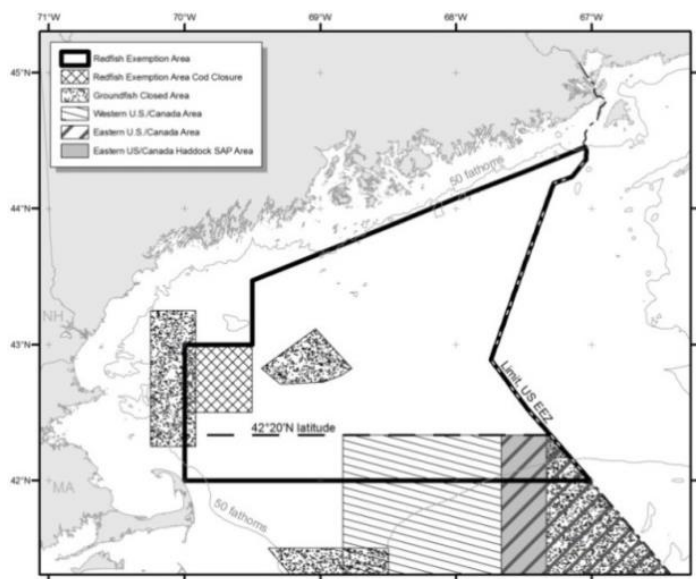
3  
4 14 Minimum codend mesh size for directed redfish trips

5  
6 This exemption allows a sector vessel to fish for Acadian redfish in the designated Redfish  
7 Exemption Area, described below, using nets with codend mesh no smaller than 5.5 inches.  
8 When fishing inside the Redfish Exemption Area all other restrictions applicable to trawl nets  
9 still apply. In order to use this exemption, a vessel must strictly adhere to the following  
10 conditions and restrictions:

- 11  
12 1. The vessel must declare its trip in PTNS under standard requirements, there is no  
13 additional at-sea monitoring coverage required above the target coverage level for the  
14 sectors (i.e., ~15% in fishing year 2018).  
15  
16 2. Prior to leaving the dock, the vessel must declare its intent to use the redfish exemption  
17 on the trip through the VMS trip start hail by checking the box “Redfish Trip” under  
18 sector exemptions.  
19  
20 3. The vessel must submit a Multispecies Catch Report through its VMS system, each day  
21 for the **entire trip**, including Parts 1 and 2 of the trip as described below, even if the  
22 vessel has declared the exemption, but does not target redfish. The vessel must submit  
23 Multispecies Catch Reports through VMS in 24-hr intervals for each day of the fishing  
24 trip. The report must be submitted by 0900 hr (9:00 a.m.) on the date following the date  
25 the fish were caught. The report must provide a good faith estimate of the amount each  
26 regulated species caught on each day of the trip.  
27  
28 4. In accordance with the restriction stated herein, the vessel may use a codend with 5.5-  
29 inch mesh and greater within the Redfish Exemption Area. The northern boundary  
30 ensures that the exemption is used in deeper water (i.e., greater than 50 fathoms).  
31 Vessels cannot use the exemption in the “cod closure” (block 131) during February and  
32 March.



1



2  
3  
4  
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6

The Redfish Exemption Area is bounded on the east by the U.S.-Canada Maritime Boundary, and bounded on the north, west, and south by the following coordinates, connected by straight lines in the order listed:

| Point | N. Lat.   | W. Long.               |
|-------|-----------|------------------------|
| A     | 44°27.25' | 67°02.75'              |
| B     | 44°16.25' | 67°30.00'              |
| C     | 44°04.50' | 68°00.00'              |
| D     | 43°52.25' | 68°30.00'              |
| E     | 43°40.25' | 69°00.00'              |
| F     | 43°28.25' | 69°30.00'              |
| G     | 43°00.00' | 69°30.00'              |
| H     | 43°00.00' | 70°00.00'              |
| I     | 42°00.00' | 70°00.00'              |
| J     | 42°00.00' | 67°00.63' <sup>1</sup> |

<sup>1</sup>The intersection of 42°00' N. latitude and the U.S.-Canada Maritime Boundary, approximate longitude in parentheses.

7  
8  
9

1 Due to concerns about GOM cod, block 131 is closed for February and March. The area is  
2 bounded on the east, north, west, and south by the following coordinates, connected by  
3 straight lines in the order listed:  
4

| Point | N. Lat.   | W. Long.  |
|-------|-----------|-----------|
| G     | 43°00.00' | 69°30.00' |
| H     | 43°00.00' | 70°00.00' |
| K     | 42°30.00' | 70°00.00' |
| L     | 42°30.00' | 69°30.00' |
| G     | 43°00.00' | 69°30.00' |

- 5
- 6 5. During a Redfish Exemption Trip, any codend that is only authorized on a Redfish  
7 Exemption Trip must be stowed below deck and can only be retrieved after completing  
8 the requirements identified in paragraph 8 below.  
9

10 **Part 1 of Redfish Exemption Trip**  
11

- 12 6. When a vessel declares a “Redfish Trip” via VMS, it may fish outside the Redfish  
13 Exemption Area during Part 1 of the Redfish Exemption Trip in accordance with  
14 otherwise applicable regulations and sector exemptions. However, fishing outside of  
15 the Redfish Exemption Area first is optional. A vessel may choose to immediately transit  
16 to the Redfish Exemption Area and begin fishing.  
17
- 18 7. Any catch thresholds do not apply for Part 1 of the trip.  
19

20 **Part 2 of Redfish Exemption Trip: Switching Codends**  
21

- 22 8. When the vessel plans to target redfish, it must travel to the Redfish Exemption Area.  
23 Once the vessel is in the Redfish Exemption Area, immediately before switching  
24 codends, it must send a Multispecies Catch Report via VMS. This report is in addition to  
25 the daily Multispecies Catch Reports that are required when utilizing this exemption.  
26 The Multispecies Catch Report a vessel must send before switching codends must  
27 provide a good faith estimate of all fish caught by the vessel that day between 12:01 AM  
28 and the time of the report, and must fill out Step 5 indicating that it intends to use the  
29 exemption immediately after sending the report. After the vessel is in the Redfish  
30 Exemption Area and submits the required catch report, it may retrieve the 5.5-inch  
31 mesh codend from below deck and begin using it. The vessel may use a 5.5-inch mesh  
32 codend (or greater) for the remainder of the trip in Redfish Exemption Area.  
33

9. Once a vessel sends the Multispecies Catch Report via VMS indicating that it is switching to the smaller mesh codend (Step 5), it is prohibited from fishing outside the Redfish Exemption Area.
10. The vessel must submit a final Multispecies Catch Report, in addition to other required Multispecies Catch Reports, and a Trip End Hail via VMS once it stops fishing and begins its return to port.

### **Summary Of All Redfish Exemption Trip Reporting Requirements**

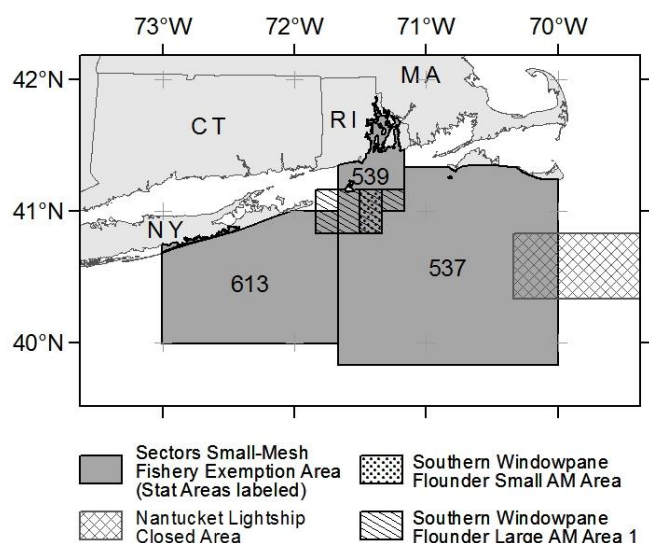
1. Submit a trip start hail declaring a redfish trip
2. Submit VTRs when switching chart area, gear, and/or mesh size.
3. Submit daily catch reports of all kept fish by 9 AM the following day.
4. Send a catch report of all kept fish since 12:01 AM of that day, with Step 5 completed.
5. Submit a final catch report and Trip End Hail at the end of the trip.

### **Monitoring Catch Thresholds**

For all trips declaring the redfish exemption and targeting redfish under Part 2 of the trip, at least 50% of the total groundfish kept must be redfish. For observed trips (NEFOP/ASM) declaring the redfish exemption and targeting redfish under Part 2 of the trip, total groundfish discards (including redfish) may not exceed 5% of all kept fish. If after at least one month, it is determined that the sector is not meeting one of these two thresholds, NMFS will notify the sector and be given 30 days to modify fishing behavior in order to meet both thresholds. NMFS retains the authority to rescind the exemption if either threshold is not being met.

### **16 Prohibition on combining small-mesh exempted fishery and sector trips**

The exemption applies to sector trips only and is intended to allow a vessel to catch small-mesh species after targeting groundfish. Under this exemption, a sector vessel must fish with trawl nets that meet current regulatory requirements and sector exemptions during the first part of the trip, but may switch to modified small-mesh gear for the second portion of the trip. The small-mesh portion of the trip must be fished in the Sector Small-Mesh Fishery Exemption Area, described below, and must use the modified small-mesh gear described below. A vessel may land whiting, longfin squid, mackerel, herring and other species permitted for retention in small-mesh exempted fisheries, provided the vessel still meets the requirements of those fisheries. For more information on small-mesh fishery exemptions and permitted species see: [https://www.greateratlantic.fisheries.noaa.gov/regs/infodocs/small\\_mesh\\_exemption.pdf](https://www.greateratlantic.fisheries.noaa.gov/regs/infodocs/small_mesh_exemption.pdf). Vessels may not fish the small-mesh portion of their trip using this exemption in Southern Windowpane Accountability Measure Areas, where they overlap with the exemption area.



As shown above, the Sector Small-Mesh Fishery Exemption Area is comprised of Statistical Areas 537, 539, and 613, and is defined as the waters bounded by the following points, connected in the order listed by rhumb lines, except where otherwise noted:

| POINT | W LONGITUDE | N LATITUDE | NOTE     |
|-------|-------------|------------|----------|
| A     | 70° 00'     | 41° 14.45' | (1)      |
| B     | 70° 00'     | 39° 50'    |          |
| C     | 71° 40'     | 39° 50'    |          |
| D     | 71° 40'     | 40° 00'    |          |
| E     | 73° 00'     | 40° 00'    |          |
| F     | 73° 00'     | 40° 44.9'  | (2)(3)   |
| G     | 72° 1.8'    | 41° 00'    | (3)(4)   |
| H     | 71° 40'     | 41° 00'    |          |
| I     | 71° 40'     | 41° 21'    | (5)(6)   |
| J     | 71° 10'     | 41° 28.3'  | (6)(7)   |
| K     | 71° 10'     | 41° 20'    |          |
| L     | 70° 49.5'   | 41° 20'    | (8)(9)   |
| M     | 70° 26.96'  | 41° 21.05' | (9)(10)  |
| N     | 70° 18.82'  | 41° 20.14' | (11)(12) |
| O     | 70° 18.30'  | 41° 19.76' | (12)(13) |
| P     | 70° 16.65'  | 41° 18.73' | (14)(15) |
| Q     | 70° 15.31'  | 41° 17.32' | (15)(16) |
| R     | 70° 14'     | 41° 17'    | (17)(18) |
| A     | 70° 00'     | 41° 14.45' | (18)(1)  |

(1) Point A represents the intersection of 70°00'W longitude and the south coast of Nantucket, MA

- (2) Point F represents the intersection of 73°00'W longitude and the south coast of mainland Long Island, NY
- (3) From Point F to Point G along the south coast of mainland Long Island, New York (inclusive of bays)
- (4) Point G represents the intersection of 41°00'N latitude and the southeast coast of Long Island, NY
- (5) Point I represents the intersection of 71°40'W longitude and the coast of Rhode Island
- (6) From Point I to J along the coast of Rhode Island, inclusive of Narraganset Bay
- (7) Point J represents the intersection of 71°10'W longitude and the coast of Rhode Island
- (8) Point L represents the intersection of 41°20'N latitude and the west coast of Martha's Vineyard, MA
- (9) From Point L to Point M along the south coast of Martha's Vineyard
- (10) Point M represents Wasque Point, Martha's Vineyard, MA
- (11) Point N represents the west coast of Muskeget Island, Nantucket, MA
- (12) From Point N to Point O along the southwest coast of Muskeget Island, Nantucket, MA
- (13) Point O represents the south coast of Muskeget Island, Nantucket, MA
- (14) Point P represents the northwest coast of Tuckernuck Island, Nantucket, MA
- (15) From Point P to Point Q along the southwest coast of Tuckernuck Island, Nantucket, MA
- (16) Point Q represents Smith Point on the southwest coast of Tuckernuck Island, Nantucket, MA
- (17) Point R represents Esther Island, Nantucket, MA
- (18) From Point R back to Point A along the south coast of Nantucket, MA

**The modified small mesh gear must contain either:**

- A drop chain sweep with a minimum drop of 12 inches (30.48 cm) in length, with a 24-inch headrope setback; or
- a large mesh belly panel with a minimum mesh size of 32 inches (81.28 cm), with the meshes hung on the half (a hanging ratio of 2:1); or
- an excluder grate secured forward of the codend with an outlet hole forward of the grate with bar spacing of no more than 1.97 inches (5.00 cm) wide.

**In order to use this exemption, the following additional conditions and restrictions apply:**

1. Prior to leaving the dock, the vessel must declare a small-mesh trip through the VMS trip start hail by checking the box next to "Other Exemption (when directed by NMFS)" under sector exemptions.
2. A vessel declaring this exemption must render its small-mesh gear not available for immediate use, as defined by 50 C.F.R. § 648.2, when using large-mesh gear during the first portion of the trip.
3. Upon completing the large-mesh portion of the trip, the vessel must submit a Multispecies Catch Report via VMS with a good faith estimate of all catch on board and indicate that it intends to fish with smaller mesh (i.e. with Step 5 completed).

4. The date-time stamp of the Multispecies Catch Report indicates to Enforcement that the vessel is now in the second portion of the trip and is prohibited from redeploying its large-mesh gear.
5. Following submission of the Multispecies Catch Report, the vessel may deploy its modified small mesh gear in the areas described above and is prohibited from fishing outside of the small mesh exemption area. All other applicable regulations apply to this portion of the trip.
6. No fishing may occur under this exemption in areas overlapping the Southern Windowpane Flounder Accountability Measure Areas, regardless of whether or not accountability measures have been triggered.
7. The vessel must comply with the remaining requirements of a sector trip, including the submission of VTRs, a trip end hail, and a final Multispecies Catch Report.
8. A vessel fishing with this exemption must retain and land all legal-sized groundfish on both the regulated mesh and small-mesh portions of the trip.

17 Requirement to Fish Exclusively with 10-inch, or Larger, mesh gillnets to Target Dogfish on Groundfish Trips Excluded from At-Sea Monitoring (ASM) Coverage

Sector trips fishing with extra-large mesh gillnets (10 inches or greater) exclusively in the Southern New England/Mid-Atlantic and Inshore GB Broad Stock Areas are not subject to ASM. This exemption allows a sector vessel on these non-ASM sector groundfish trips to also target dogfish using 6.5-inch mesh gillnet gear within the footprint and season of either the Nantucket Shoals Dogfish Exemption Area (June 1 through October 15), the Eastern Area of the Cape Cod Spiny Dogfish Exemption Area (June 1 through December 31), or the Southern New England Dogfish Gillnet Exemption Area (May 1 through October 31). The vessel must submit a vessel trip report (VTR) to document catch on the extra-large mesh portion of the trip, and a separate VTR for the portion of the trip in which the vessel deploys 6.5-inch mesh gillnet gear within the footprint and season of the existing dogfish exempted areas. The following requirements apply:

In order to use this exemption, the following additional conditions and restrictions apply:

1. The vessel must declare its trip into the Pre-Trip Notification System consistent with current requirements.
2. The vessel must declare its trip in the Vessel Monitoring System (VMS) consistent with current requirements, including the intention to use gillnet gear and fish entirely within the SNE/MA and/or Inshore GB BSAs.
3. Prior to leaving the dock, the vessel must also send a Multispecies Trip Start Hail through the VMS and check the box next to “Extra Large Mesh Gillnet in SNE and/or IGB option” under sector exemptions.

4. The vessel may only fish with gillnets with meshes that are 10 inches or greater during the first portion of the trip, and must complete a VTR for that portion of the trip before deploying 6.5 inch mesh gillnet gear.
5. Upon completing the extra-large mesh portion of the trip, the vessel must submit a Multispecies Catch Report via VMS with a good faith estimate of all catch on board and with Step 5 completed.
6. The date-time stamp of the Multispecies Catch Report indicates to Enforcement that the vessel is now in the second portion of the trip and is prohibited from redeploying its large-mesh gear.
7. Following submission of the Multispecies Catch Report, the vessel may deploy 6.5-inch mesh gillnet gear exclusively within the footprint and season of the existing dogfish exempted areas (listed above).
8. The vessel must comply with the remaining requirements of a sector trip, including the submission of VTRs, a trip end hail, and a final Multispecies Catch Report.
9. A vessel fishing with this exemption must retain and land all legal-sized groundfish on both the extra-large mesh and regulated mesh portions of the trip.

18 VMS requirement for Handgear A vessels fishing in a single broad stock area (BSA)

All vessels on a sector trip must carry an operational VMS unit. This exemption allows Handgear A permitted vessels to fish in a single BSA on a sector trip without carrying a VMS. This exemption does not waive requirements to carry or report using a VMS unit when fishing in multiple BSA's, in the U.S/Canada Management Areas, or under any other requirements associated with using other sector exemptions or participating in Special Access Programs.

In order to use this exemption, the following conditions and restrictions apply:

1. The vessel must declare its trip into the Pre-Trip Notification System at least 48 hours before sailing, and carry an observer or at-sea monitor (ASM) if selected, consistent with current requirements.
2. The vessel must declare a trip start, prior to sailing, using the Interactive Voice System (IVR).
3. Upon completion of fishing, or at the earliest opportunity prior to returning to port, the vessel must declare a trip end using IVR. The vessel may not land regulated species prior to declaring its trip end in IVR.

- 1 4. Prior to landing the vessel must complete (and if possible submit) a Vessel Trip Report  
2 (VTR).  
3

4 19 Day gillnet limit in the Gulf of Maine  
5

6 Day gillnet vessels may fish above the limit of 100 gillnets [specified in § 648.80 (a)(3)(iv)(B)(2)],  
7 up to 150 nets total. Any nets above the existing 100-net limit must have a minimum mesh size  
8 of 10.0 inches (25.4 cm) and must be fished east of 70 degrees West longitude. Vessels are  
9 limited to no more than 50 roundfish gillnets. Vessels must comply with the net tagging  
10 requirements at § 648.80(a)(3)(iv)(B)(4), which requires roundfish gillnets to be tagged with two  
11 tags per net, while flatfish gillnets may be marked with one tag per net; all gillnets fished must  
12 be tagged..  
13  
14  
15

16 Section 5.11. **SAPs and Other Special Management Programs.**

17 Sector Members may participate in SAPs or any other pilot/EFP/LOA program, or special  
18 management programs as authorized by NOAA fisheries as long as the Sector has available ACE.  
19  
20

21 **Article VI. CATCH MONITORING AND VERIFICATION (AT-SEA); CERTAIN OTHER**  
22 **MEMBERSHIP REQUIREMENTS.**  
23

24 Section 6.01. **Sector Hails/Reporting.**

25 Each Participating Vessel must notify the Manager, his designated representative, and/or an  
26 approved Monitoring Vendor via email, other electronic means, or other means if necessary prior  
27 to departing from port on a commercial fishing trip when commercial fishing with gear capable  
28 of harvesting regulated groundfish unless otherwise exempted. Such notification shall include  
29 vessel name, permit number, and any other information as determined by the Manager. In  
30 accordance with and defined by Amendment 16, all Sector vessels will also be required to make  
31 a declaration to NMFS via VMS prior to departing port identifying whether they intend to fish in  
32 one broad reporting area or multiple reporting areas. Vessels that fish in multiple areas will be  
33 required to provide additional daily reports to NMFS as required by Amendment 16. Each  
34 Participating Vessel must notify the Manager, his designated representative, and/or an approved  
35 Monitoring Vendor via email, other electronic means, or other means if necessary in accordance  
36 with Section 5.08 hereof with species-specific landings, and any other information as requested  
37 by NMFS.  
38

39 Section 6.02. **Participating Vessel Catch Reports.**

40 To enable each Member and the Sector to monitor the Members' compliance with this  
41 Agreement, each Member agrees to report each of its Participating Vessels' entire catch on a  
42 landing-by-landing basis, by providing the Manager with a copy of the official Vessel Trip Report,  
43 Electronic Vessel Trip Report ("EVTR"), or other reporting document authorized by NMFS within  
44 24 hours, or as soon as possible thereafter, of offloading retained catch or prior to departing on



1 a subsequent trip, whichever occurs first, in the form and manner prescribed by the Manager.  
2 The Members agree that these records shall be maintained by the Manager. The Manager shall,  
3 upon the request of any Member or NMFS, provide such Member or NMFS with the Sector's  
4 aggregate catch information that is generated from such records.  
5

6 **Section 6.03. Dealer Reporting.**

7 Each Member agrees to (i) sell the catch of its Participating Vessels only to a dealer licensed under  
8 the Plan by NMFS and (ii) cause any such dealer to provide the Manager with a copy of the official  
9 dealer weigh out slip, access to an electronic copy of these data on a weekly basis, and a paper  
10 copy of the pack-out slip within 24 hours, or as soon as possible thereafter, of offloading retained  
11 catch unless otherwise noted by the Manager (This provision should be considered exclusive to  
12 the administration of the Sector and would therefore not be subject to NMFS enforcement). Each  
13 Member further acknowledges and agrees that (a) it is responsible for ensuring timely dealer  
14 reporting in accordance with the provisions of this Section 6.03 and (b) failure of the dealer to  
15 deliver timely reports for a Member's Participating Vessel in accordance with this Section 6.03  
16 shall be deemed a breach of this Agreement by such Member. It is the responsibility of the  
17 Member to ensure that a dealer is licensed and Member shall provide evidence of such licensure  
18 to Manager upon request.  
19

20 **Section 6.04. Catch Verification.**

21 The Manager shall, and each Member shall ensure that the Manager does compare, verify and  
22 validate each Participating Vessel's catch records with the dealer reports for such Participating  
23 Vessel on a continuing and frequent basis if the Members maintain compliance with Section 6.02  
24 and 6.03 if requested by the Members. If the Member or Manager identifies a discrepancy  
25 between these or any other available catch verification data, both parties shall seek to resolve  
26 the discrepancy. If the Manager is unable to satisfactorily reconcile the catch records, he shall  
27 notify the Committee of the discrepancy for its consideration and resolution. Each Member  
28 further agrees to cooperate fully with any requests for information or data that are made by the  
29 Manager or the Committee in an effort to resolve such discrepancy in a timely manner.  
30

31 **Section 6.05. Monitoring Vendors.**

32 As a lease only entity, the Sector will not contract with one or more vendors approved by NMFS  
33 to provide at-sea monitoring services prior to May 1, 2019.  
34

35 **Section 6.06. Dockside Monitoring Program.**

36 The Sector will not be required to implement a Dockside Monitoring (DSM) Program ("DMP") in  
37 FYs 2019 and 2020.  
38

39 **Section 6.07. At-Sea Monitoring Program.**

40 As a lease only entity, the Sector will not contract with one or more vendors approved by NMFS  
41 to provide at-sea monitoring services prior to May 1, 2019.  
42

43 **Section 6.08. Mooncusser Sector Monitoring Program.**

44 Reserved.

1  
2 Section 6.09. **Mooncusser Sector Electronic Monitoring Program.**

3 Reserved.

4  
5 **Article VII. ENFORCEMENT.**

6  
7 Section 7.01. **Agreement Enforcement.**

8 Each Member agrees that the Sector, by or through its representatives, and/or any other  
9 Member may enforce this Agreement on behalf of the Sector and/or its Members. Each Member  
10 agrees to take all actions and to execute all documents necessary or convenient to give effect to  
11 the enforcement procedures contemplated by this Agreement, the Harvesting Rules, and any  
12 Schedule of Penalties.

13  
14 Section 7.02. **Liability.**

15 Members acknowledge and agree that the Sector itself is a legal entity – 501(c)(5) corporation -  
16 and therefore may be held liable for violations of the law, applicable regulations, and this  
17 Agreement committed by its members. Each Member participating in the Sector must comply  
18 with all applicable requirements and conditions of this Agreement and their LOA(s). It shall be  
19 unlawful and subject to enforcement by NOAA fisheries for the Sector or any Members to violate  
20 any such conditions and requirements unless they are identified as exclusive to the  
21 administration of the Sector. Those conditions and requirements that are considered to be  
22 exclusive to the administration of the Sector are contained in the following sections:

- 23       • 1.03 – Organization and Authority  
24       • 2.01 – Voluntary Membership  
25       • 2.02 – Scope of Membership Obligations  
26       • 2.03 – Length of Commitment  
27       • 2.04 – New Members  
28       • 2.05 – Permit Transfers  
29       • 2.06 – Right of First Refusal  
30       • 2.07 – Membership Dues  
31       • 2.08 – Disclosure Agreement  
32       • 3.01 – Sector Manager  
33       • 3.02 – Manager Authority  
34       • 3.03 – Infractions Committee  
35       • 3.04 – Procedures for Investigations  
36       3.06 – Inshore GOM Declaration Program  
37       • 4.01 – Sector Allocation  
38       • 4.02 – Annual Distribution  
39       • 4.03 – Reserve  
40       • 4.04 – Release of Reserve  
41       • 4.05 – ACE Transfer  
42       • 5.04 – Operators  
43       • 5.07 – Observed Offloading

- 5.09 – Redirection of Effort
- 6.02 – Participating Vessel Catch Reports
- 6.03 – Dealer Reporting
- 6.04 – Catch Verification
- 6.08 – Mooncusser Sector Monitoring Program
- Article VII in its entirety (Enforcement)
- Article VIII in its entirety (Expulsion of Members)
- Article IX in its entirety (Term/Termination)
- Article X in its entirety (Misc.)

**Section 7.03. Restrictions on Fishing Activity.**

The Members acknowledge that a violation of this Agreement or applicable fishery regulations by one or more Members (or the Members' Permits, Participating Vessels or Participating Vessels' operators, if any) including misreporting of catch (landings or discards), discarding of legal-sized fish, and ACE overages could subject the Sector and its Members to joint and several liability to NMFS for fishing violations (including ACE overages, discarding of legal sized fish, and misreporting of catch (landings and discards)). The Members further acknowledge and agree that monetary and/or allocation seizure penalties could be inadequate recourse under such circumstances. Therefore, the Members acknowledge and agree that each of them will (and will cause their Permits, Participating Vessels and Participating Vessels' operators, if any, to) comply with a "stop fishing" order from the Sector, which shall be issued by the Board, the Manager or the Committee, and each of the Members further agrees that if any Member (or its Permits, its Participating Vessels or the Participating Vessels' operators) fails to comply with such order, the Sector shall have the authority to obtain an injunction, restraining order or other equivalent form of equitable relief to give effect to such "stop fishing" order.

**Section 7.04. Penalties for Violations.**

Any penalties that are imposed upon a Member by the Sector, Manager, or Committee pursuant to the terms of this Agreement shall be in addition to, and not in lieu of, any other potential state or federal penalty that may be imposed upon such Member.

**Section 7.05. Appeal from Infractions Committee Decision.**

If the Committee (i) has determined, pursuant to the procedures set forth in Section 3.04 hereof, that a Member has violated this Agreement or (ii) makes any other determination with respect to a Member under this Agreement (including, specifically, without limitation Section 4.07 hereof), such violating Member shall have five (5) business days following the date of the Committee's determination to request reconsideration of the enforcement or other action and/or propose an alternative form of penalty. Such request shall be made in writing and shall be addressed to the Board. The Board may, in its sole discretion, grant or deny any request for reconsideration and may, in its sole discretion, approve or disapprove any alternative form of penalty; provided, that the Board shall exercise all reasonable efforts to ensure that penalties and settlements are commensurate with the nature and extent of the violation, are designed to further the purposes of the Plan, Amendment 16, the Framework Adjustment and Amendment 13 and are uniform with those reached in similar circumstances.

1  
2 **Section 7.06. Penalties and Attorneys' Fees.**

3 Penalties for any violations of this Agreement shall, to the extent addressed in the Schedule of  
4 Penalties, be limited to the amounts set forth on the Schedule of Penalties plus all costs, fees and  
5 expenses, including attorney's fees, incurred by the Sector or, in a case in which the Sector does  
6 not take enforcement action, by the Members bringing such action, in enforcing the provisions  
7 of this Agreement. To the extent the Schedule of Penalties addresses such matter, the Members  
8 and the Sector hereby waive any claims to actual, direct, or indirect damages, and instead agree  
9 that payment of the amounts set forth on the Schedule of Penalties and costs of enforcement  
10 shall be their sole remedy for breaches of this Agreement. In connection with any legal  
11 proceeding related to this Agreement, the non-prevailing party shall pay the prevailing party's  
12 reasonable costs and attorney's fees associated with the proceeding.  
13

14 **Section 7.07. Application of Penalties, Fines and Damages.**

15 All penalties, fines and/or other damages paid to the Sector shall, first, be applied to the cost of  
16 enforcement of such violations and, second, any remaining amounts shall be applied to the costs  
17 and expenses of the administration, management and preservation of the Sector. Any funds  
18 remaining after the application of the foregoing sentence shall be used to further research into  
19 efficient and responsible management of groundfish stocks for the benefit of the resource and  
20 those that harvest the resource. The Board shall have sole discretion to redistribute ACE seized  
21 for penalties.  
22

23 **Section 7.08. Dispute Procedures.**

24 Notwithstanding the provisions of Section 7.01 hereof, prior to instituting any litigation or other  
25 dispute resolution, the parties shall follow any applicable procedures set forth in this Agreement,  
26 including specifically Sections 3.04, 6.04 and 7.02, for the resolution of such dispute. Any appeals  
27 taken with respect to any dispute that arises in connection with this Agreement shall be taken in  
28 the federal district court in Boston, Massachusetts or, if said court(s) does not have jurisdiction,  
29 in such courts in the Commonwealth of Massachusetts that do have jurisdiction.  
30

31 **Section 7.09. Specific Performance.**

32 In furtherance and not limitation of Section 7.02 hereof, each of the Members and the Sector  
33 shall have the right to have any provision of this Agreement specifically enforced, through  
34 injunction, restraining order or other form of equitable relief.  
35

36 **Section 7.10. Indemnification.**

37 Each party that violates this Agreement (the "Indemnitor") hereby severally agrees to indemnify,  
38 defend and hold harmless the other parties hereto (each, an "Indemnatee") in respect of their  
39 respective Losses; provided, that such Losses result or arise from a third party claim or  
40 governmental proceeding brought against or involving the Indemnatee, which is based on or  
41 relates to such Indemnitor's (or its Permits', its Participating Vessels' or such Participating Vessels  
42 operators', if different from such Indemnitor) (i) violation of applicable laws, rules or federal  
43 fishery regulations or (ii) breach of any covenant, agreement or obligation contained in this  
44 Agreement, the Harvesting Rules or other Sector requirements as may be adopted under the

terms of this Agreement or the Sector's Bylaws. The indemnification obligations of the parties hereto shall be several and not joint and several. For the purposes of this Section 7.09, "Losses" shall mean any and all claims, liabilities, obligations, judgments, liens, injunctions, charges, orders, decrees, rulings, damages, dues, assessments, taxes, losses, fines, penalties, expenses, fees, costs, amounts paid in settlement (including reasonable attorneys' and witness fees and disbursements in connection with investigating, defending or settling any action or threatened action) arising out of any claim, complaint, demand, cause of action, action, suit or other proceeding asserted or initiated or otherwise existing. The obligations under this Section 7.09 shall survive the termination of this Agreement and the expulsion of any Member pursuant to Article VII.

## **Article VIII. EXPULSION OF MEMBERS.**

### **Section 8.01. Cause.**

The Members agree that any Member, its Permits and/or its Participating Vessels may be expelled from the Sector if (i) the actions of such Member and/or its Participating Vessels (or the Participating Vessels' operators) seriously undermine and threaten the existence of the Sector, (ii) the actions of such Member and/or its Participating Vessels (or the Participating Vessels' operators) have exposed other Members of the Sector to monetary penalties and/or legal actions, (iii) such Member has been convicted of a serious crime, or (iv) such Member has not paid its membership dues and/or poundage fees as required by Section 2.07.

### **Section 8.02. Procedure.**

Any Member, the Committee or the Manager may submit to the Board a request to have a Member, its Permits and/or its Participating Vessels expelled from the Sector (the "Expulsion Request"). Such Expulsion Request shall be in writing and shall include an explanation of the basis for expulsion. The Board shall vote on such Expulsion Request within fourteen (14) days of receipt of such Expulsion Request. The affirmative vote of three-fourths (75%) of the members of the Board shall be required in order to expel a Member, its Permits and/or its Participating Vessels. Expulsion shall be effective immediately upon the receipt of the requisite vote by the Board. As required by 50 CFR Part 648.87 or any substitute or successor provision, a Member, its Permits and/or its Participating Vessels expelled during any fishing year may not fish outside of the Sector under a groundfish DAS program, participate in another groundfish sector, or lease or transfer any DAS or ACE assigned to that Member's Permits or Participating Vessels during the remainder of such fishing year. Upon expulsion of any Member, its Permits and/or its Participating Vessels, the Manager shall immediately notify NMFS via certified mail and email that the Member's Permits and/or Participating Vessels are no longer included in the Sector.

## **Article IX. TERM/TERMINATION.**

This Agreement takes effect upon the approval hereof by the Regional Administrator in accordance with 50 CFR Part 648.87 and terminates on the last day of the 2020 FY (which occurs on April 30, 2021) (the "Term"). The Term of this Agreement may be extended by the written

1 consent of the Members. Such written consent to extend the Term of this Agreement shall be  
2 given twenty (20) calendar days in advance of the date by which the Sector's Operations Plan and  
3 Agreement for the upcoming fishing year must be submitted to NMFS. Notwithstanding the  
4 foregoing, if NMFS shall not approve the Sector's Operations Plan and Agreement, as the same  
5 may be amended, for any fishing year during the Term or any extension thereof, then this  
6 Agreement shall terminate on the last day of the last fishing year for which the Sector's  
7 Operations Plan and Agreement shall have received approval from NMFS.

## 8 9 10 **Article X. MISCELLANEOUS.**

### 11 12 **Section 10.01. Entire Agreement.**

13 This Agreement, including the Exhibits hereto, the Schedule of Penalties and any other  
14 documents incorporated by reference herein, constitutes the entire agreement among the  
15 parties and supersedes any prior understandings, agreements, or representations by or among  
16 the parties, written or oral, to the extent they related in any way to the subject matter hereof.

### 17 18 **Section 10.02. Succession and Assignment.**

19 This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of  
20 the parties and their respective successors and permitted assigns, but neither this Agreement  
21 nor any of the rights, interests or obligations hereunder shall be assigned by any party, including  
22 by operation of law, without the prior written consent of the Manager, such consent not to be  
23 unreasonably withheld or delayed, nor is this Agreement intended to confer upon any person  
24 except the parties hereto any rights, interests, benefits, obligations or remedies hereunder. Any  
25 assignment in contravention of this Agreement shall be null and void.

### 26 27 **Section 10.03. Counterparts.**

28 This Agreement may be executed in one or more counterparts, each of which shall be deemed  
29 an original but all of which together shall constitute one and the same instrument.

### 30 31 **Section 10.04. Notices.**

32 All notices, requests, demands, consents, claims and other communications hereunder shall be  
33 deemed duly given (i) one business day following the date sent when sent by overnight delivery,  
34 (ii) five business days following the date mailed when mailed by registered or certified mail return  
35 receipt requested and postage prepaid, (iii) upon delivery confirmation when sent by facsimile,  
36 and (iv) upon verifying the "sent" status of an email, at the contact information provided by each  
37 such Member to, and maintained by, the Manager.

### 38 39 **Section 10.05. Governing Law.**

40 This Agreement shall be governed by and construed in accordance with federal fisheries laws  
41 and, to the extent that federal fisheries laws do not apply, with the domestic laws of the  
42 Commonwealth of Massachusetts without giving effect to any choice of law provision or rules  
43 (whether of Massachusetts or any other jurisdiction) that would cause the application of the laws  
44 of any jurisdiction other than the Commonwealth of Massachusetts.

1  
2 **Section 10.06. Change in Law.**

3 If and to the extent that any laws or regulations that govern any aspect of this Agreement shall  
4 change, so as to make any aspect to this Agreement unenforceable, then the parties agree to  
5 make such modifications to this Agreement as may be reasonably necessary for this Agreement  
6 to accommodate any such legal or regulatory changes, without materially changing the overall  
7 benefits or consideration expected hereunder by the parties.  
8

9 **Section 10.07. Consent to Jurisdiction and Venue.**

10 Subject to and without limiting the dispute resolution procedures set forth in Article VI, each of  
11 the Members consent to the exclusive jurisdiction and venue of the federal district court in  
12 Boston, Massachusetts or, if said court does not have jurisdiction, in such courts in the  
13 Commonwealth of Massachusetts that do have jurisdiction, for adjudication of any suit, claim,  
14 action or other proceeding at law or in equity relating to this Agreement. Each of the Members  
15 accepts, generally and unconditionally, the exclusive jurisdiction and venue of the aforesaid  
16 courts and waives any objection as to venue, and any defense of *forum non conveniens*.  
17

18 **Section 10.08. Amendments and Waivers.**

19 No amendment of any provision of this Agreement shall be valid unless the same shall be in  
20 writing and signed by each of the Members.  
21

22 **Section 10.09. Severability.**

23 Any term or provision of this Agreement that is held invalid or unenforceable in any situation  
24 shall not affect the validity or enforceability of the remaining terms and provisions hereof or the  
25 validity or enforceability of the offending term or provision in any other situation.  
26

27 **Section 10.10. Expenses.**

28 Except as otherwise provided herein, each of the members shall bear its own costs and expenses  
29 (including legal and accounting fees and expenses) incurred in connection with this Agreement.  
30

31 **Section 10.11. Incorporation of Exhibits and Other Documents.**

32 The Exhibits and Schedule of Penalties identified in this Agreement are incorporated herein by  
33 reference and made a part hereof.  
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*See Signature Pages*

**EXHIBIT A**

| <b>Mooncusser Sector Penalty Schedule</b>  |   |  |   |
|--|---|--|---|
| <b>Violation</b>   | <b>FIRST</b>  | <b>SECOND</b>  | <b>THIRD</b>  |
| <b>VIOLATIONS REGARDING PERMITS, REPORTING, DOCUMENTATION, VESSEL OPERATIONS AND EXEMPTIONS</b>  |   |  |   |
| All Violations including but not limited to: providing false statements or supporting documentation on applications or reports to the Sector; late or non-reporting; failure to comply with a permit condition/ restriction/ letter of authorization or exemption issued by the Sector; providing false statements; failure to participate in the Sector Catch Monitoring Program (ie NMFS ASM program, Sector electronic monitoring program); unreasonably interfering with onboard data collectors; or failing to comply with VMS/DAS requirements (technical and minor violations may result in a letter of warning). | Up to \$5,000 and/or seizure of up to 10% of a Member's ACE (and/or stop fishing order) | \$5,000-\$15,000 and/or seizure of up to 30% of a Member's ACE (and/or stop fishing order) | \$20,000 or more, and/or seizure of up to 40% of a Member's ACE (and/or stop fishing order) |



| <b>VIOLATIONS REGARDING TIME AND AREA RESTRICTIONS</b>  |  |  |           |
|---|--|--|-----------|
| All violations including, but not limited to: exemption areas, closed fisheries, closed seasons, restricted gear/management areas and Days at Sea or ACE violations.  | Up to \$50,000 and/or seizure of up to 50% of a Member's ACE (stop fishing order for 30 days)      | \$50,000-\$100,000 and/or seizure of up to 100% of a Member's ACE (unable to fish for the remainder of the fishing year) | Expulsion |
| <b>VIOLATIONS THAT PLACE THE SECTOR AGREEMENT AT RISK</b>   |  |  |           |
| All violations including but not limited to a violation of a stop order, fishing in a closed area, transfer of fish from a non-sector vessel to a sector vessel, transferring fish to a non-Sector vessel (including a non-Sector vessel owned or operated by a Permit holder), subverting the reporting requirements (misappropriating landings) or any other action which could cause the Authorized Georges Bank Cod Mooncusser Sector Allocation to be in violation of its agreement. | Up to \$50,000 and/or seizure of up to 10% of a Member's ACE (loss of fishing rights for 365 days) | Expulsion  |           |
| <b>VIOLATIONS REGARDING MEMBERSHIP COMMITMENT</b>   |  |  |           |
| Violation of 50 CFR 648.48 or failing to remain in the Sector for the Commitment Period (i.e., breach of Section 2.03 of the Agreement).  | \$10,000 and/or seizure of up to 20% of a Member's ACE   | N/A  | N/A       |

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**EXHIBIT B**  
**Mooncusser Sector Roster**

| <b>Current Owner</b> | <b>Moratorium Right ID</b> | <b>Permit #</b> | <b>Permit Name</b>        |
|----------------------|----------------------------|-----------------|---------------------------|
| TNC                  | 27                         | 150563          | Cape Island               |
| TNC                  | 1496                       | 151931          | Skiff                     |
| TNC                  | 1689                       | 151926          | Skiff                     |
| TNC                  | 1755                       | 148810          | 1986 Cape Island          |
| TNC                  | 2650                       | 151425          | Mattanza                  |
| TNC                  | 3390                       | 150584          | Lei Lani                  |
| CCCFA                | 76                         | 150187          | Seed                      |
| CCCFA                | 153                        | 150877          | Sea Holly III             |
| CCCFA                | 274                        | 151192          | Carole R II 2009 KL Indus |
| CCCFA                | 328                        | 150844          | Sam Ryder                 |
| CCCFA                | 449                        | 150671          | Carol Ann                 |
| CCCFA                | 465                        | 240543          | Huntress                  |
| CCCFA                | 677                        | 149988          | 2002 Skiff Tolley Susie Q |
| CCCFA                | 1434                       | 151437          | Marilyn Louise Skiff      |
| CCCFA                | 1527                       | 221935          | Sea Baggins               |
| CCCFA                | 1563                       | 150706          | Sturdee                   |
| CCCFA                | 1725                       | 151978          | Skiff                     |
| CCCFA                | 1746                       | 211160          | Sea Winds                 |
| CCCFA                | 1856                       | 120962          | Little Rascal             |
| CCCFA                | 1886                       | 232096          | Alicia Ann                |
| CCCFA                | 2013                       | 223607          | Headhunter                |
| CCCFA                | 2039                       | 150897          | Monomoy                   |
| CCCFA                | 2107                       | 151425          | Paula Jean                |
| CCCFA                | 2179                       | 151438          | Fair Winds Skiff          |
| CCCFA                | 2196                       | 232043          | Gregory                   |
| CCCFA                | 2692                       | 150529          | Beacon                    |
| CCCFA                | 4129                       | 150841          | Desire III                |
| CCCFA                | 4326                       | 151429          | Snafu II Skiff            |
| CCCFA                | 47883                      | 151425          | Nothing But Trouble Skiff |
| CCCFA                | 47926                      | 151436          | Miss Molly Skiff          |
| CCCFA                | 2995                       | 150853          | Blue Bag                  |
| CCCFA                | 3015                       | 149404          | DH Boatworks              |
| CCCFA                | 3098                       | 135589          | Blue Sky                  |
| CCCFA                | 3158                       | 136085          | Little Sammy III          |
| Michael Russo        | 2482                       | 150359          | Susan Lee                 |
| Michael Russo        | 129                        | 150041          | Zach n. Abbie             |
| Jean Barker          | 3323                       | 213004          | Tuna Eclipse              |
| Eric Hesse           | 1744                       | 151695          | Rug Rats Skiff            |

1 **EXHIBIT C**

2  
3 **HARVESTING RULES**  
4 **Fishing Years 2019 and 2020**  
5 **Mooncusser Sector**  
6

7 The Members and the Participating Vessels of the Sector agree to be legally bound to follow the  
8 Harvesting Rules for the 2019 and 2020 Fishing Years as described herein, notwithstanding those  
9 rules and regulations applicable to Common Pool groundfish vessels. As a lease only entity,  
10 members of Mooncusser Sector will not be harvesting groundfish quota.  
11

12 **QUOTA MONITORING**  
13

14 **1. Annual Catch Entitlement (ACE):**

15 The Members agree that they would not collectively harvest more ACE than allocated to the  
16 Sector, and once the ACE is reached for any stock, no Member would fish commercially with any  
17 fishing gear capable of harvesting regulated groundfish species in the area for which there is no  
18 ACE. ACE transfer would be allowed within and between sectors, to the extent authorized by  
19 Amendment 16. Carryover of up to 10 percent of any sector's initial ACE would be allowed for  
20 the purposes of accounting for inadvertent overages. Once an ACE in a particular stock area is  
21 reached, no member would fish commercially with any fishing gear capable of catching species  
22 managed under the Plan in that stock area until additional ACE can be acquired. The Annual  
23 Catch Entitlement, allocated by NMFS to the sector for FY 2019& FY 2020 will be available in the  
24 Northeast Multispecies Fisheries Sector Operations Plans and Contracts and Allocation of  
25 Northeast Multispecies Annual Catch Entitlement Final Rule as published by NOAA Fisheries.  
26

27 **2. Target Quotas:**

28 The Manager may impose weekly or trip target quotas to slow down harvest rates. If such target  
29 quotas are imposed, Sector Members agree to adjust their fishing operations to avoid exceeding  
30 these quotas.  
31  
32

33 **3. Trip Limits for Non-ACE Stocks:**

34 Sector Members would be subject to all possession and trip limits for those stocks for which the  
35 Sector is not allocated ACE.  
36  
37

38 **ADMINISTRATIVE**  
39

40 **4. Days-At-Sea ("DAS"):**

41 Each participating Permit and Participating Vessel would be allocated DAS by the Regional  
42 Administrator, as set forth on Exhibit C to the Agreement. This DAS allocation would be  
43 considered the Sector's DAS allocation to individual Members. Members may be required to use  
44 an "A" DAS when conducting fishing operations.

1  
2 **5. DAS Pooling:**

3 Participating Vessels and/or Permits may redistribute or pool DAS to other Participating Vessels  
4 and/or Permits, provided that both parties have given prior written consent to such  
5 redistribution or pooling. A Participating Vessel and/or Permit may not transfer or lease DAS to  
6 or from any non-Sector vessel and/or permit during the fishing year in which the Participating  
7 Vessel and/or Permit is enrolled in the Sector, unless such leasing or transferring is authorized by  
8 an amendment to the Plan or by the Regional Administrator.  
9

10  
11 **GEAR REQUIREMENTS**  
12

13 **6. Gear Restrictions:**

14 Unless otherwise permitted under this Agreement (see Section 5.02 and 5.11), no Participating  
15 Vessel may fish for regulated groundfish species with any gear other than rod-and-reel/jigs,  
16 demersal longline, handgear, sink gillnets, or otter trawl. All Participating Vessels are subject to  
17 the same gear restrictions on marking, tagging, and mesh size applicable to common pool vessels  
18 using the same type of gear. In addition, when fishing with demersal longlines all hooks must be  
19 12/0 circle hooks. A “circle hook” is defined as a hook with the point turned back towards the  
20 shank and the barbed end of the hook is displaced (offset) relative to the parallel plane of the  
21 eyed-end, or shank of the hook when laid on its side.  
22  
23  
24

**EXHIBIT D**

Vessel Permit Data

All permits, groundfish or otherwise, owned by Sector members, are included in the following list.

*Current as of April 31, 2019*

| <b>Sector Roster</b>   |        |
|--|--------|
| CPH permits  | 40     |
| Lease Vessels  | 0      |
| Non-Lease Vessels  | 0      |
| <b>Targeted Commercial Fisheries*</b>                        |        |
| Groundfish   | 0      |
| Monkfish & Skate   | 0      |
| Lobster (Trap)   | 0      |
| Scallop  | 0      |
| Other  | 0      |
| <b>Primary Gear Type**<br/>(Groundfish, Monkfish, Skate)</b> |        |
| Sink Gillnet   | 0 (0%) |
| Demersal Longline  | 0 (0%) |
| Jig/handline   | 0 (0%) |
| Otter Trawl  | 0 (0%) |

\*\*Mooncusser Sector, Inc does not contain active fishing permits and therefore has no targeted fishery to assign primary gear type.

**EXHIBIT E**

**Ownership Documentation**

**Section 1.01. Sector Qualification.**

Amendment 16 to the NE multispecies FMP defines a sector as a group of three or more persons, none of whom have an ownership interest in the other two persons in the sector. This criterion has been fulfilled for the Mooncusser Sector with:

| <b>CURRENT OWNER NAME</b>                | <b>MRI #</b> | <b>PERMIT #</b> | <b>PERMIT NAME</b> |
|--|--------------|-----------------|--------------------|
| Cape Cod Commercial Fishermen's Alliance | 76           | 150187          | Seed               |
| The Nature Conservancy                   | 3390         | 150584          | Lei Lani           |
| Jean Barker                              | 3323         | 213004          | Tuna Eclipse       |

**EXHIBIT F**

**Mooncusser Sector Board of Directors**

**Section 1.01. Board of Directors Membership**

The following Mooncusser Sector Members comprise the current (as of May 1, 2019) Board of Directors:

| <b>2018 Board of Directors*</b> |
|---------------------------------|
| Seth Rolbein, President         |
| Chris McGuire, Treasurer        |
| Jean Barker, Clerk              |
|                                 |
|                                 |
|                                 |
|                                 |
|                                 |
|                                 |

As of the date of this document submission (April 31, 2019), the additional contact able to act on behalf of the Sector is:

|          |              |
|----------|--------------|
| Name:    | Seth Rolbein |
| Mobile:  | [REDACTED]   |
| Email:   | [REDACTED]   |
| Address: | [REDACTED]   |

**EXHIBIT G**

**Mooncusser Sector Points of Contact**

**Section 1.01. Points of Contact**

The following individuals associated with the Mooncusser Sector may be contacted for the following responsibilities:

| Sector Communications Contacts |  |                    |  |
|--------------------------------|--|--------------------|--|
| <b>Name</b>                    | Amanda Cousart   | Seth Rolbein       |  |
| <b>Title</b>                   | Sector Manager   |                    |  |
| <b>Responsibility</b>          | Day-to-Day Sector Operations;<br>Reporting; Policy Issues;<br>Research; Outreach | General Management |  |
| <b>Email</b>                   | [REDACTED]   | [REDACTED]         |  |
| <b>Phone (work)</b>            | [REDACTED]   | [REDACTED]         |  |
| <b>Phone (mobile)</b>          | [REDACTED]   |                    |  |
| <b>Mailing Address</b>         | [REDACTED]   | [REDACTED]         |  |



1

**EXHIBIT H**

2

3

4

Reserved

5

## EXHIBIT I

### The Northeast Fisheries At-Sea Monitor Program

National Marine Fisheries Service, Northeast Fisheries Science Center

#### C.1 BACKGROUND OVERVIEW

The National Oceanographic and Atmospheric Administration's (NOAA) mission is to understand and predict changes in the Earth's environment and conserve and manage coastal and marine resources to meet our Nation's economic, social, and environmental needs. NOAA's National Marine Fisheries Service (NMFS) supports the overall NOAA mission by focusing on stewardship of living marine resources through science-based conservation and management and the promotion of healthy ecosystems.

NMFS is responsible for the management, regulatory compliance, economic data and protection of living marine resources within the United States Exclusive Economic Zone. NMFS also plays a supportive and advisory role in the management of living marine resources in coastal areas under state jurisdiction. It provides scientific and policy leadership in the international arena, and implements international conservation and management measures as appropriate.

Under this mission, the goal is to optimize the benefits of living marine resources to the Nation through sound science and management. This requires a balancing of multiple public needs and interests in the sustainable benefits and use of living marine resources, without compromising the long-term biological integrity of coastal and marine ecosystems.

Many natural and human-related factors affect the status of fish stocks, protected species and ecosystems. Although these factors cannot all be controlled, available scientific and management tools enable the agency to have a strong influence on many of them. Maintaining and improving the health and productivity of these species is the heart of the NMFS mission. These activities will maintain and enhance current and future opportunities for the sustainable use of living marine resources as well as the health and biodiversity of their ecosystems.

NMFS has three objectives in its mission to protect, restore, and manage the use of coastal and oceanic resources:

- Protect and restore ocean, coastal, and Great Lakes resources
- Recover protected species
- Rebuild and maintain sustainable fisheries.

NMFS will measure its performance against these objectives using the following measures:

- 1st: Increased number of coastal and marine ecosystems maintained at a healthy and sustainable level
- 2nd: Increased social and economic value of the marine environment and resources (e.g., seafood, recreation, and tourism)
- 3rd: Increased number of acres and stream-miles restored for coastal and ocean species
- 4th: Increased number of protected species in a stable condition or in an upward trend

- 5th: Increased number of managed species that are at optimum levels
- 6th: Improved ecological conditions in coastal and ocean protected areas

Additionally, Amendment 16 to the Northeast (NE) Multispecies Fishery Management Plan (FMP) was developed by the New England Fishery Management Council (Council) as part of the biennial adjustment process established in the FMP to update status determination criteria for all NE multispecies (groundfish) stocks; adopt rebuilding programs for groundfish stocks newly classified as being overfished and subject to overfishing; and revise management measures necessary to end overfishing, rebuild overfished groundfish stocks, and mitigate the adverse economic impacts of increased effort controls. In addition, Amendment 16 would implement new requirements for establishing allowable biological catch (ABC), annual catch limits (ACLs), and accountability measures (AMs) for each stock managed by the FMP, pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), as revised. This action is necessary to address the results of the most recent stock assessment that indicates that several additional groundfish species are overfished and subject to overfishing and that stocks currently classified as being overfished require additional reductions in fishing mortality to rebuild by the end of existing rebuilding periods.

The Northeast Fisheries Science Center (NEFSC), National Marine Fisheries Service (NMFS) is required to collect scientific, management, regulatory compliance and economic data for fisheries by placing At-Sea Monitors aboard U.S. domestic fishing vessels participating in the groundfish multispecies Fisheries Management Plan. These data cannot be obtained at the dock or on Government research vessels. These data are needed for the management and monitoring of Annual Catch Limits and groundfish sectors.

Every sector should equally be covered at 31%. The coverage rates apply to the trip level. At-Sea Monitors will be systematically assigned by NMFS to a vessel to ensure the coverage is fair and even. Several types of fishing gear may be used: longline, trawl, and gillnet. A monitored trip must be a trip where landings of groundfish occur (a “groundfish”, “skate” or “monkfish” trip as defined in Amendment 16). At-Sea Monitoring standards will be consistent with the final regulations implemented under Amendment 16, unless further specified by NMFS. As described in the rule, Northeast Fisheries Observer Program (ASM) observers take precedence over At-Sea Monitors for vessel placement when deployments overlap.

## C.2 AT-SEA MONITOR PROGRAM OBJECTIVES

NMFS has an extensive program to monitor and observe living marine resources and associated communities to provide information on biota, their habitats, and the human activities and actions that may impact coastal and ocean ecosystems. Data are the foundation of scientific advice, which provides information to management to support decision-making. A more consistent flow of high quality, credible information is required to improve decision-making. To collect the quantity and quality of data necessary, NMFS intends to improve its capacity to conduct surveys and to conduct research and studies for better understanding of ecosystems. These efforts rely on extensive collaboration with fisheries participants and other stakeholders in the living marine resource decision process.

At-Sea Monitors are the only independent data source for some types of at-sea information such as bycatch composition and mortality, and marine mammal, sea bird and sea turtle interactions. Although vessel self-reporting is often utilized, only limited data collection demands can reasonably be placed on the captain and crew. In addition, the reliability of self-reported information is a concern for scientists and policy makers, who use the data to make fishery management decisions for the purpose of maintaining the nation's marine resources.

Currently, more than 500 At-Sea Monitors are deployed in 11 At-Sea Monitor programs most of which are administered through NMFS 6 regional Fisheries Science Centers (FSC). Increasing NMFS At-Sea Monitor data coverage is essential to reliably estimating catch and bycatch and helping to implement programs to reduce bycatch. Additional benefits of enhanced At-Sea Monitor programs are near real-time monitoring of biological and environmental conditions and sampling opportunities not available from dockside sampling. This includes information on marine mammals, turtles and seabirds, resource abundance, contaminants, habitat, life history, and other basic biological information.

NMFS is required to collect scientific, management, regulatory compliance, and economic data for fisheries by placing At-Sea Monitors aboard U.S. domestic fishing vessels. These data cannot be obtained at the dock or on Government research vessels. These data are needed for the management of fisheries occurring in the U.S. Exclusive Economic Zone (EEZ) and the high seas beyond the EEZ.

NMFS desires contractor support, as described below, to satisfy these requirements.

### C.3 SCOPE AND OUTCOMES

The contractor shall provide and retain the necessary qualified personnel, material, equipment, services, and facilities (except as otherwise specified) to perform quality environmental, and fisheries operations data collection, data analysis, and information dissemination for the Northeast Fisheries Science Center (NEFSC) Data quality is of the utmost importance. Quality data collection, analysis, and dissemination are expected to increase the critical information gathered for stock assessments to manage the species.

This Statement of Work (SOW) defines the requirements and services necessary to provide program continuity, integrity, and productivity.

#### C.3.1 Policies and Regulations

In addition to the Federal Acquisition Regulation (FAR) clauses referred to and listed herein of this Request for Proposal (RFP), the contractor shall comply with the Federal Regulations, Acts, Executive Orders, Special Publications, Guidelines, NOAA Directives and Policies and standards listed below. This listing is not all-inclusive and is not intended to relieve the contractor of its responsibilities for identification of applicable statutes, regulations and procedures and compliance therewith, when performing work under this SOW.

- Magnuson-Stevens Fishery, Management, and Conservation Act (MSA)
- Marine Mammal Protection Act (MMPA)
- Endangered Species Act (ESA)

- 1 • Data Quality Control Act (P.L. 106-514)
- 2 • Information Technology Security Policy
- 3 • Fisheries Management Plans (FMP)
- 4 • Biological Opinions (BO)
- 5 • Take Reduction Team (TRT)
- 6 • NOAA Safety Standards
- 7 • Fair Labor Standards Act (FLSA)
- 8 • Service Contract Act (SCA)
- 9 • Department of Labor Wage Determinations
- 10 • Applicable Federal and State labor laws
- 11 • At-Sea Monitor Health and Safety regulations
- 12 • Federal, state, and local safety regulations
- 13 • Merchant Marine Act (Jones Act) and General Maritime Law
- 14 • U.S. Longshore and Harbor Worker's Compensation Act

#### 15 C.4 PERFORMANCE WORK STATEMENT

16 The contractor shall meet all requirements of the SOW.

#### 17 C.4.1 Management Requirements

##### 18 C.4.1.1 Project Management

19 The contractor shall perform all Project Management functions including contract, technical,  
20 personnel, administrative, logistic, quality, business, and other management functions that are  
21 necessary to execute the total effort required by this SOW. The contractor shall provide all  
22 personnel and other resources, except as otherwise specified in this SOW, necessary to  
23 accomplish these functions. The contractor shall effect these management functions through  
24 an integrated management approach, including cost, schedule, and technical performance  
25 within an acceptable project management framework. The contractor shall develop and submit  
26 to NMFS a Project Management Plan (as further defined in Section F.5.2) for approval that  
27 details how the contractor will manage the contract and its At-Sea Monitor program.

##### 28 C.4.1.2 Project Manager

29 The contractor shall assign a Project Manager to be the focal point for communications  
30 between NMFS and the contractor. The assigned Project Manager shall be designated as Key  
31 Personnel for this contract (per Section H.7). Ensure that all key personnel attend any refresher  
32 trainings for At-Sea Monitors. For a specific job description see Section J, Attachment 2, Labor  
33 Category Classifications and Job Descriptions.

##### 34 C.4.1.3 Coordinators

35 The contractor shall assign coordinators as needed to coordinate At-Sea Monitor deployment  
36 and provide At-Sea Monitor support services. The coordinator shall be designated as key  
37 personnel under this contract (per section H.8). All coordinators are required to maintain

current At-Sea Monitor Certification. Ensure that all key personnel attend any refresher trainings for At-Sea Monitors. For a specific job description see Section J, Attachment 2, Labor Category Classifications and Job Descriptions.

#### C.4.1.4 Management Reporting and Coordination

The contractor shall prepare and submit to the Contracting Officer (CO) , Contracting Officer's Technical Representative (COTR) a monthly Status Report, as listed in Section F.5.1, that provides information on project status to include, contract award-to-date financial expenditures; At-Sea Monitor retention status; any problems or issues encountered; and other information as may be requested by the COTR.

#### C.4.1.5 Performance Measures

The contractor shall monitor and meet all requirements as stated in the SOW.

### C.4.2 Operational Requirements

At-Sea Monitors are deployed, in accordance with coverage rates developed by NMFS and as assigned through the Pre-Trip Notification System (PTNS), to vessels. Due to availability of funding, changes in the fishery management, such as emergency closures, court ordered closures, weather, and unforeseen events must remain flexible. Additional funding for sea days may be added to the contract within the scope and maximum allowable sea days.

The following items define the operational services to be provided by the contractor under this contract.

#### C.4.2.1 At-Sea Monitor Recruitment and Retention Requirements

The recruitment and retention of fully qualified At-Sea Monitors is essential to successful performance under the contract. At-Sea Monitors shall be employees of the contractor. The contractor shall provide sufficient qualified At-Sea Monitors to complete the mandated coverage requirement by selecting the best candidates.

The contractor shall describe their strategy for recruiting qualified candidates and retaining their services, as referenced in Section F.5.4. The contractor shall manage its At-Sea Monitors to retain both experienced and new At-Sea Monitors. The contractor is encouraged to provide incentives for superior performance demonstrated by their work force.

#### C.4.2.2 Eligibility Requirements

##### C.4.2.2.1 Educational Qualifications

Collecting marine fisheries data during fishing activities requires speed and accuracy. At-Sea Monitors must possess the minimum educational and experience requirements and specific psychological and physical qualities cited in the Minimum At-Sea Monitor Qualifications for educational requirements (Section J, Attachment 3, NMFS At-Sea Monitor Eligibility Requirements).

C.4.2.2.2 Non-Conflict of Interest

Section J, Attachment 4 (Statement of Non-Conflict of Interest)

C.4.2.2.3 Physical/Medical Condition

Section J, Attachment 5 (Physical Standards & Acknowledgement of Risks)

C.4.2.2.4 Communication Skills

At-Sea Monitor candidates must be able to clearly and concisely communicate verbally and in writing in English.

C.4.2.2.5 Citizenship or Ability to Work Legally in the United States

At-Sea Monitor must be a U.S. Citizen, or a non-citizen who has a green card, TN Authorization, H1 visa, or valid work visa, and a social security card.

C.4.2.2.6 Statement of No Criminal Conviction

Section J, Attachment 6 (Statement of No Criminal Conviction)

C.4.2.2.7 CPR and First Aid Requirements

At-Sea Monitors shall obtain and maintain current certification for CPR by the American Red Cross or American Heart Association (AHA) or other as approved by the COTR. Completion of a basic First Aid class is also required before the start of training. A copy of CPR and First Aid certification(s) for all At-Sea Monitors will be provided to NMFS 7 calendar days prior to the first day of training and annually thereafter.

C.4.2.2.8 At-Sea Monitor Standards of Conduct

At sea, At-Sea Monitors work in a self-supervised capacity and shall maintain high standards of conduct. At-Sea Monitors shall maintain a professional, objective demeanor at all times. At-Sea Monitors shall comply with these standards and those set forth in the Standards of Conduct (Section J, Attachment 7, At-Sea Monitor Standards of Conduct).

C.4.2.3 Observer/At-Sea Monitor Duties and Data Collection Requirements

1) General Observer Duties and Data Collection Requirements – Fishery Observer I, II, and III

- a) Observers/At-Sea Monitors shall collect scientific, management, compliance, and other data at sea through interviews of vessel captains and crew; observations of fishing operations; sampling catch; measuring selected portions of the catch and fishing gear; and collecting samples. Observer/At-Sea Monitor coverage is mandated by a number of statutes and is an integral part of the regulations. These authorities empower the observer/At-Sea Monitor to perform certain functions aboard vessels as well as afford protection to the observer/At-Sea Monitor against interference and intimidation in the course of performing his/her duties.

- 1 b) Observer/At-Sea Monitors shall collect data on fishing effort, location, retained catch  
2 and discarded catch for each gear deployment that occurs while the observer/At-Sea  
3 Monitor is aboard the vessel. The At-Sea Monitor Sampling Manual describes data  
4 collection protocols for gear deployment that the observer/At-Sea Monitor sees as well  
5 as those not observed.
- 6 c) Observer/At-Sea Monitors shall collect length samples from segments of the catch.  
7 Observer/At-Sea Monitor protocols, priorities, and data/sample collection procedures  
8 are detailed in the At-Sea Monitor Manual.
- 9 d) Observer/At-Sea Monitors shall collect information on any incidentally captured sea  
10 turtles, including, but not limited to, location of take, biopsies, measurements, photos,  
11 and any other information. Observer/At-Sea Monitors shall also collect information on  
12 any marine mammals or other protected species interactions. When protected species  
13 are caught, the primary responsibility of the observer/At-Sea Monitor shall be to handle  
14 and release the protected species.
- 15 e) Observers shall participate in all training, briefings and debriefings as required by the  
16 COTR. Observer/At-Sea Monitors shall participate in port orientations, if offered by  
17 NMFS and requested by the COTR (Section B – Supplies or Services and Prices/Costs  
18 Training CLIN 0003, 1003, and CLIN 2003. Debriefing of the observer/At-Sea Monitor  
19 ensures that the data are complete and as accurate as possible before computer audits  
20 are run. Debriefing also provides immediate feedback to the observer/At-Sea Monitor in  
21 the field and errors can be corrected immediately. Debriefings shall occur on a regular  
22 basis and as frequently as possible either by email, phone or in person. Debriefings shall  
23 consist of but are not limited to:
- 24 i) Reviewing sampling methods and answering Observer/At-Sea Monitor  
25 questions;  
26 ii) Reviewing preliminary data;  
27 iii) Correcting any data errors;  
28 iii) Reviewing any other past errors or changes in sampling techniques or recorded  
29 on forms;  
30 iv) Reviewing any logistical problems or concerns encountered by the observer/At-  
31 Sea Monitor; and  
32 v) Testing observer/At-Sea Monitor ability to adhere to sampling protocol  
33 vi) Checking gear calibration  
34 vii) Providing the observer/At-Sea Monitor with any updates on modifications to  
35 sampling procedures or other program information.
- 36 f) Observer/At-Sea Monitors who encounter captains or vessels' owners operating in  
37 fisheries requiring mandatory observer/At-Sea Monitor coverage that refuses to accept  
38 the observer/At-Sea Monitor on their vessel for deployments shall provide  
39 documentation of the refusal to NMFS. This documentation shall be provided via e-mail  
40 or hard copy to the Branch Chief of the Fisheries Sampling Branch on the day of the  
41 event. This documentation shall be of sufficient substance and detail to be usable for  
42 NMFS enforcement actions. Narrative shall be provided to completely answer the



- 1 following guideline questions: who, what, when, and where. This shall be reported on  
2 the Incident Report Form (Section J, Attachment 8, Incident Report Form).
- 3 g) Observer/At-Sea Monitors shall send in the whole animal or take a photo of all species  
4 encountered the Species ID Verification Program quarterly to NMFS (Section J,  
5 Attachment 9, Species Verification Program). Failure to do so may result in an  
6 observer/At-Sea Monitor's change in status (i.e., pre-probation, probation, and  
7 decertification).
- 8 2) Fishery Observer/At-Sea Monitor I – Performance Requirements and Labor Category  
9 Definition - The Fishery observer/At-Sea Monitor I shall meet and perform all the General  
10 Requirements specified in C.4.3.2a and the following:
- 11 a) Performs routine tasks associated with recurring and continuing work according to  
12 prescribed or established procedural standards and technical methods assigned.  
13 b) Assures that tasks are completed, data developed, methods used in securing and  
14 verifying data are technically accurate and in compliance with instructions and  
15 established procedures.  
16 c) Makes estimates of amounts and species composition of fish caught, retained and  
17 discarded, using at a minimum, simple, single stage sampling techniques and  
18 dichotomous keys.  
19 d) According to established standards and detailed procedures, records data on  
20 appropriate forms and logs, some of which may be electronic.  
21 e) Maintains field equipment and supplies.  
22 f) Collects scientific, management, compliance information, and make observations of  
23 fishing operations.  
24 g) Use and complete a pre-boarding vessel safety checklist.  
25 h) Measures selected portions of catch including incidentally caught marine mammals, sea  
26 birds and sea turtles.  
27 i) Uses calculator and/or PC for calculations and recording data.  
28 j) Obtains, enters and transfers data electronically.  
29 k) Obtains and records information on gear characteristics of fishing gear types while  
30 working either on board vessels, on an alternative platform, or at a shore-based facility.  
31 l) Uses interpersonal and communication skills to contact fishermen and schedule  
32 observer/At-Sea Monitor sampling trips.  
33 m) Observes and documents compliance with fishery regulations, and write affidavits as  
34 required.
- 35 3) Fishery Observer/At-Sea Monitor II - The Fishery observer/At-Sea Monitor II shall meet and  
36 perform all the General Requirements specified in C.4.3.2a, perform all duties of Fishery  
37 observer/At-Sea Monitor I and the following additional duties:
- 38 a) Independently executes duties, while learning when and how to resolve exceptions and  
39 special problems.  
40 b) Estimate amounts and species composition of fish caught, retained and discarded,  
41 utilizing knowledge of various statistically valid sampling methods and dichotomous  
42 keys.

- c) Measure selected portions of catch including incidentally caught marine mammals, sea birds and sea turtles.
- d) Uses calculator and/or PC for calculations and recording data.
- 4) Fishery Observer/At-Sea Monitor III - The Fishery Observer/At-Sea Monitor III shall meet and perform all the General Requirements specified in C.4.3.2a, perform all duties of Fishery observer/At-Sea Monitor II and the following additional duties:
  - a) May act as field coordinator of lower graded fishery observer/At-Sea Monitors.
  - b) Demonstrates extensive familiarity of methods, procedures and management to ensure proper day-to-day operations.
  - c) Shifts from one type of responsible technical assignment to other types, which are different in terms of equipment used, of data used, and uses to which data will be put.
  - d) Makes estimates of amounts and species composition of fish caught, retained and discarded, utilizing knowledge of various statistically valid sampling, sub-sampling methods and dichotomous keys.
  - e) According to established standards and detailed procedures, records data on appropriate forms and logs, some of which may be electronic and provide recommendations for updates.
  - f) Oversees the maintenance of field equipment and supplies.
  - g) Collect scientific, management, compliance information, observations of fishing operations, measure selected portions of catch including incidentally caught marine mammals, sea birds and sea turtles.

#### C.4.2.3.1 Data Deliverables

Electronic data entry by At-Sea Monitors is required in addition to required paperwork, and shall be managed by the contractor in coordination with the COTR. Submission of At-Sea Monitor data to the NMFS shall be accomplished in a timely manner. The contractor shall work with the COTR to establish the appropriate means to transfer the electronic data to the COTR.

- 5) Delivery of paper log data shall be received within 5 calendar days (120 hours) of the vessel landing as referenced in Section F.5.5.
- 2) Delivery of electronic data shall be received within 2 calendar days (48 hours) of the vessel landing as referenced in Section F.5.6.
- 3) Delivery of biological specimens (whole fish samples) shall be received within 5 calendar days (120 hours) of the vessel landing as referenced in Section F.5.7.

At-Sea Monitors shall send any written data and biological specimens directly to NMFS. The Government will provide shipping and supplies. At-Sea Monitors shall assure that biological samples or whole animals requiring freezing are received by the nearest NMFS freezer facility within twenty-four (24) hours of vessel landing. NMFS has freezers located in major fishing ports (Section J, Attachment 10, Freezer Locations). The transfer or transport of the frozen samples or animals must be received by NMFS (At-Sea Monitor Training Center) within 5 calendar days of the trip landing, unless a delay is authorized by the COTR. Costs for travel associated with transport of biological samples will be reimbursed under the travel provision

section herein (Section B Supplies or Services and Prices/Costs Travel CLINS 0002, 1002 and 2002).

#### C.4.2.3.2 At-Sea Monitor Communication

At-Sea Monitors shall maintain regular contact with their assigned NMFS editor/debriefer. All At-Sea Monitors shall call their editor/debriefer prior to making a trip in a fishery or program covered for the first time or as requested. At-Sea Monitors shall return phone calls or reply to email questions as soon as realistically possible (i.e., before departing on a multi-day trip). NMFS can request that an in-person meeting occur with an At-Sea Monitor at any time. These meetings will take priority over accomplishment of the sea day schedule. All travel costs associated with required in person debriefings, exit interviews and meetings with NMFS will be reimbursed under the travel provision section herein (Section B Supplies or Services and Prices/Costs Travel CLINS 0002, 1002 and 2002) and the At-Sea Monitor hourly rate will be reimbursed under the hourly rate provision section herein (Section B Supplies or Services and Prices/Costs Hourly Rate At-Sea Monitor CLINS 0004, 1004 and 2004). NMFS staff will provide written memo updates to the contractor regarding any new or changed sampling protocols, data collection procedures, or other collection or reporting procedures. The contractor shall make certain that At-Sea Monitors comply with changes, as applicable.

Require that any At-Sea Monitor who leaves the program come into the At-Sea Monitor Training Center complete all exit procedures including an in-house exit interview with NMFS (Section J, Attachment 11, Exit Procedures) within 30 days from landing from their last trip.

Provide the primary port, contact information(full name, mailing address, residential address, e-mail address, cell phone number, home number, emergency contact name and phone number, and working status (full time or part time). If there is a change made to any variables in the list, an updated list shall be provided to NMFS immediately (Section F.5.8).

#### C.4.3 At-Sea Monitor Support Services

##### C.4.3.1 Logistic and Operation Support for At-Sea Monitor Deployment

The contractor shall provide complete logistical and operational support to At-Sea Monitors throughout their employment. The contractor's approach to supporting At-Sea Monitors shall be detailed in the proposal.

##### C.4.3.2 Training and Debriefings

Attachment 34, HR Bulletin 103, provides policy and guidance on training for non-government employees. At least 95% of new At-Sea Monitor recruits are expected to pass the required training course (Section J, Attachment 12, ASM Training Standards) and the required physical examination (Section J, Attachment 5, Physical Standards & Acknowledgement of Risk).

Training costs are reimbursable and are intended to include all costs associated with At-Sea Monitor training (both initial training and refresher trainings), including, but not limited to, salary during the training period, per diem (meals & reimbursements and lodging), miscellaneous equipment for use during training (as authorized or requested by the

1 Government – Section B Supplies or Services and Prices/Costs Training CLINS 0003, 1003 and  
2 2003).

3 At-Sea Monitor candidates shall undergo an initial 2-week certification training session with  
4 NMFS. A series of tests will be administered during this training that candidates must prior to  
5 certification. Candidates must demonstrate their potential to collect accurate field data, and  
6 react to unfamiliar situations at sea in a professional manner. NMFS personnel as well as  
7 specialists in other areas such as vessel safety shall conduct training. Refresher training sessions  
8 will be conducted when data logs or protocols change, at the discretion of the COTR, or when  
9 there has been over six months service interruption for the At-Sea Monitor. At-Sea Monitors  
10 shall be required to attend an annual refresher course for data collection, species identification,  
11 and vessel safety. In order for the At-Sea Monitor to maintain a current certification they must  
12 successfully complete the recertification training. Three trainings are scheduled for each year  
13 (planned trainings will be posted on the FSB website). The contractor shall provide NMFS with  
14 at least 45 calendar days prior notice when a training session is needed and identify any foreign  
15 nationals that may be attending training (it takes a minimum of 30 working days for foreign  
16 national clearance) as referenced in Section F.5.9. For extenuating circumstances, additional  
17 trainings may be scheduled at the Government's discretion. Attendance by key personnel at  
18 training is required for at least two days each week of training.

19 The contractor shall submit to NMFS, at least 30 calendar days before the beginning of the  
20 training, the following information as referenced in Section F.5.10:

- 21 • a list of the potential candidates names for review by NMFS
- 22 • a hard copy (mailed to the COTR) of each candidates resume
- 23 • a hard copy (mailed to the COTR) of the candidates college transcript
- 24 • a hard copy (mailed to the COTR) of reference checks from three individuals for each  
25 candidate (name of individual providing reference, association with At-Sea Monitor, how  
26 long they have known the candidate, contact information (phone number, e-mail), and  
27 information about the At-Sea Monitor's past performance)

28 The contractor shall submit to NMFS, at least 14 calendar days before the beginning of the  
29 training, the following information as referenced in Section F.5.11:

- 30 • an updated list of candidates
- 31 • a medical report for each candidate substantiating the individual's medical qualifications for  
32 the job
- 33 • online security clearance electronic forms must be initiated by candidates (Section J,  
34 Attachment 13, Security Background Instructions)

35 The contractor shall submit to NMFS, at least 7 calendar days before the beginning of the  
36 training, the following information as referenced in Section F.5.12:

- 37 • Final list of candidates attending upcoming training session
- 38 • CPR and First AID Certificate

39 NMFS may require additional information regarding At-Sea Monitor candidates and should be  
40 consulted regarding any for which proposed candidate there is some question regarding

1 qualifications. Should substitution of At-Sea Monitors be required, the contractor shall also  
2 provide their pertinent information to the COTR prior to such substitution. The Government  
3 retains the right to reject any At-Sea Monitor proposed by the contractor if his or her  
4 qualifications do not meet the qualifications specified in paragraph C.4.2.2, Eligibility  
5 Requirements, or if their work has been performed at an unsatisfactory level on previous  
6 projects, or if their behavior on other projects has been disruptive.

7 The contractor shall provide the status of its At-Sea Monitor training approvals completed and  
8 in process in its Monthly Status Report (Section F.5.1).

9 NMFS training curriculum is detailed in the ASM training agenda (Section J, Attachment 14,  
10 ASM Training Agenda).

11 An At-Sea Monitor's first 4 deployments and the resulting data shall be immediately edited and  
12 approved after each trip by NMFS prior to any further deployments by that At-Sea Monitor  
13 (Section J, Attachment 15, ASM Training Trip Policy). During the At-Sea Monitor's first 4  
14 deployments, in order for them to go on their next trip, their data must be received, edited and  
15 the At-Sea Monitor must be "cleared" by NMFS to sail on their next trip. This notification will be  
16 sent via e-mail to the At-Sea Monitor's provider. The At-Sea Monitor cannot be deployed until  
17 the e-mail notification has been sent by NMFS. If the data quality is considered acceptable the  
18 At-Sea Monitor will become certified. If the data quality is not considered acceptable, the At-  
19 Sea Monitor will not be certified by NMFS at that time.

20 The first trip an At-Sea Monitor takes after completing the initial 2-week training course will be  
21 accompanied by either a NMFS member or a certified trip trainer. Certified trip trainers are  
22 current At-Sea Monitors under this contract and are certified by NMFS. In order to become a  
23 trip trainer, the contractor must request to NMFS the names of the At-Sea Monitor they would  
24 like certified. NMFS would then assign a NMFS staff member to accompany the trip trainer  
25 candidate on a future trip. If approved by NMFS the At-Sea Monitor would become a trip  
26 trainer. Contractor responsibilities consist of finding vessels that are willing to take two (2) At-  
27 Sea Monitors, setting up the logistics of the trip, and communicating with NMFS regularly  
28 providing updates on the status of the trip (Section J, Attachment 16, Trip Trainer Certification  
29 Program).

30 At-Sea Monitor trip trainers taking their training assignment trips with NMFS personnel may bill  
31 the cost of a seaday under CLINS 0003, 1003 and 2003. When two At-Sea Monitors are on a  
32 vessel for the days a certified At-Sea Monitor trip trainer is accompanying a new At-Sea  
33 Monitor then the new At-Sea Monitor should be billed under CLINS 0001, 1001 and 2001. The  
34 certified trainer would be billed as a seaday under CLINS 0003, 1003 and 2003. NMFS  
35 determines the number of trainers needed based on how many At-Sea Monitors are currently  
36 working, what the demand for new At-Sea Monitors is, and what the projected training  
37 schedule looks like. NMFS currently has 12 certified At-Sea Monitor trip trainers and would  
38 expect to maintain that level. At-Sea Monitors certified as trip trainers must be geographically  
39 representative of the ports ASM At-Sea Monitors cover to accommodate all new trainees.

40 Key personnel will be expected to attend any other periodic NMFS required trainings related to  
41 the ASM program that could impact At-Sea Monitor protocols, such as program manual update

1 trainings or changes to the Pre-Trip Notification System. One key personnel is required per all  
2 trainings, however, NMFS encourages all available staff attend periodic trainings that relate to  
3 changes in the ASM program or sampling protocols for their own education. A key personnel is  
4 required to attend two days per week of  
5 each training and all the days of refresher training.

6 Compensation for the At-Sea Monitor's time at the refresher training and all other training as  
7 well as meals & reimbursement (M&I) and lodging will be reimbursed by NMFS (Section B –  
8 Supplies or Services and Prices/Costs Training CLINS 0003, 1003, and 2003). Costs for travel to  
9 and from the training center will not be covered by NMFS.

10 Per Diem and lodging during weekends are reimbursable during trainings that occur over the  
11 course of multiple weeks. Weekend At-Sea Monitor salary costs are not covered under  
12 reimbursement, unless training (such as a weather-delayed training trip) occurs on a weekend  
13 day. A weekend make up day would be required if the building is closed during the week.

14 At-Sea Monitors shall be expected to remain as active At-Sea Monitors or serve in other  
15 capacities directly related to the Northeast Fisheries At-Sea Monitor Program (e.g. program  
16 management) for at least one (1) year after training. The contractor shall reimburse the  
17 Government for training expenses for any At-Sea Monitors terminating their At-Sea Monitor  
18 employment with the contractor within one (1) year of completing the NMFS training. This will  
19 be done by issuing a credit for the next training session. For example, if three (3) At-Sea  
20 Monitors leave the program prior to completing one (1) year of employment, at the next  
21 training, three (3) individuals' training costs (Section B Supplies or Services and Prices/Costs  
22 Training CLINS 0003, 1003, and 2003) and hourly wages associated with the training (Section B  
23 Supplies or Services and Prices/Costs Hourly Rate At-Sea Monitor CLINS 0004, 1004 and 2004)  
24 will not be billed to the Government.

25 At-Sea Monitors shall sign a non-disclosure statement (confidentiality agreement) at the  
26 commencement of training (Section J, Attachment 17, NEFSC Statement of Non-Disclosure) as  
27 referenced in Section F.5.24.

28 NMFS may request an At-Sea Monitor be accompanied by a NMFS staff member on a future  
29 trip. The contractor shall assist with the setting up these shadow trips (Section J, Attachment  
30 18, Shadow Trip Program). The contractor shall make At-Sea Monitors available to NMFS  
31 (Enforcement and FSB staff) for the purposes of routine debriefings, requested meetings  
32 regarding data quality issues, investigating circumstances of alleged refusals by vessels to take  
33 an At-Sea Monitor or other violations of the Magnuson-Stevens Fishery Conservation Act  
34 (MSA), Marine Mammal Protection Act (MMPA), or the Endangered Species Act (ESA) recorded  
35 by the At-Sea Monitor in the course of his/her duties (Section B Supplies or Services and  
36 Prices/Costs Training CLINS 0003, 1003 and 2003) and hourly wages associated with the training  
37 (Section B Supplies or Services and Prices/Costs Hourly Rate At-Sea Monitor CLINS 0004, 1004  
38 and 2004). All At-Sea Monitors shall call their editor/debriefer prior to making a trip in a fishery  
39 or program covered for the first time.

#### C.4.3.3 Data Quality Control

Data shall be collected and maintained in accordance with contractor's Quality Assurance Plan as incorporated in the contract (Section F.5.3).

The overall goal of quality control is to ensure the effectiveness and efficiency of collection efforts as well as the quality of data collected. Data quality is of utmost importance. As such the contractor shall ensure the highest quality in data collected by its At-Sea Monitors. NMFS will provide a data quality rating of At-Sea Monitors to the provider on a bi-annual basis (Section J, Attachment 19, Data Quality Rating). The contractor shall use the data quality rating of At-Sea Monitors in their Quality Assurance Plan (F.5.3).

#### C.4.3.4 At-Sea Monitor Equipment, Operation and Maintenance

The contractor shall provide all materials and equipment necessary for the collection of data and biological sampling (Section J, Attachment 20, ASM Gear List). The contractor shall maintain and replace lost gear to ensure the At-Sea Monitor is able to carry out his/her sampling duties. For items listed with a brand name, the contractor shall provide the equivalent quality to the brand listed.

The gear and equipment, purchased and charged to the Government in the performance of the contract becomes Government property at the end of the contract. Equipment and gear should be inspected and repaired in accordance with manufacturers specification as needed and at a minimum of once per year. Newly acquired gear must be of the same quality as the originally provided Government gear. At-Sea Monitor gear and contractor's tracking and maintenance of such gear is subject to periodic audit by the Government. The Government retains the right to modify gear specifications and requirements to meet research collection needs.

#### C.4.3.5 Travel and Lodging

The contractor is responsible for all travel arrangements and expenses, appropriate lodging, and all expenses associated with training, safety meetings, briefings, debriefings, and deploying At-Sea Monitors to assigned vessels. All travel costs and expenses incurred shall be reimbursed in accordance with the Government's Travel Regulations.

Travel costs are reimbursable and are intended to include costs associated with At-Sea Monitor travel to and from vessels and to and from the port if the At-Sea Monitor travels greater than fifty (50) miles, one way, from their primary port (Section B Supplies or Services and Prices/Costs CLINS 0002, 1002, and 2002).

Coordinator and support staff travel (related to At-Sea Monitor deployment) to and from vessels and to and from the port are reimbursable if travel meets Government Travel Regulations and At-Sea Monitor travel costs under CLINS 0002, 1002, and 2002. The contractor shall submit a travel voucher (Section J, Attachment 21, At-Sea Monitor Travel Voucher) clearly documenting all travel logistics and associated costs to the COTR.

While an At-Sea Monitor is out at sea, per diem is not reimbursable, unless authorized on a case-by-case basis by the COTR, such as if an At-Sea Monitor lands in a port other than their primary port.

#### 1 C.4.3.6 Vessel Selection

2 The contractor shall strictly adhere to all sampling design requirements specified for the  
3 Northeast Fisheries At-Sea Monitor Program (ASM). NMFS will provide the contractor with a set  
4 of specific guidelines regarding vessel selection and placement considerations by various  
5 fisheries. The contractor shall make contact with vessels selected either by NMFS to arrange for  
6 At-Sea Monitor coverage and deployment scheduling as necessary. When the contractor/At-Sea  
7 Monitor makes initial contact with the vessel, the contractor/At-Sea Monitor shall verify with  
8 the captain that he has sufficient life raft capacity for an additional person (At-Sea Monitor). If  
9 not, the contractor shall immediately attempt to have one of the NMFS issued valise life rafts  
10 available for the At-Sea Monitor for that trip. If one is not available, and the captain still intends  
11 to sail without the At-Sea Monitor, an SDR shall be issued to the captain of the vessel (Section J,  
12 Attachment 22, Safety Deficiency Report). The contractor shall assign At-Sea Monitors to  
13 vessels without regard to preference expressed by vessel owners or operators with respect to  
14 At-Sea Monitor race, gender, age, religion, or sexual orientation nor shall the contractor  
15 consider At-Sea Monitor's expressed preference. The contractor shall not assign At-Sea  
16 Monitors who are showing symptoms of illness or who may be contagious. In the event that an  
17 At-Sea Monitor falls severely ill or injured at sea, and the vessel must prematurely cease fishing  
18 to return the At-Sea Monitor to port, the contractor shall propose a plan on how to work out a  
19 fair reimbursement for the vessel's fuel expenses.

20 Various regulated fisheries have a requirement for a vessel's representative to notify the ASM  
21 prior to making each fishing trip. Notification is required prior to the planned departure in a  
22 specific time frame, e.g., forty-eight (48). The vessel is then randomly assigned, by NMFS, an At-  
23 Sea Monitor or issued a waiver, relieving them of the requirement to carry an At-Sea Monitor  
24 for that specific trip. The contractor shall provide personnel or an automated answering service  
25 to handle notifications twenty four (24) hours a day, seven (7) days a week, for certain fisheries.  
26 Depending on regulations enacted by the NMFS, the notification requirement may require e-  
27 mails, telephone calls, or inputting into a website from the vessel's representative. The  
28 Groundfish fishery is required to notify NMFS, NMFS is responsible for the selection and  
29 informs the vessel and the contractor of trip details.

30 For the groundfish fishery (notifies NMFS when they are sailing), the contractor will be notified  
31 of trip selection via the website. The contractor may accept or decline trips within twenty four  
32 (24) hours. If a trip is accepted by a contractor, the contractor would make contact with the  
33 vessel for trip logistics. The COTR shall be notified all circumstances in which At-Sea Monitors  
34 were late or missed a scheduled trip for all fisheries as referenced in Section F.5.13.

35 Vessels must be covered randomly, without repeated deployments on the same vessels by the  
36 same At-Sea Monitor, unless waived by the COTR. For trips outside closed areas and other  
37 special access fishing programs there shall be no more than two (2) back to back trips by the  
38 same At-Sea Monitor on the same vessel. A vessel selection list may be provided by NMFS  
39 which will rank vessels in the order they should be covered.

40 Cost Reimbursement is authorized for At-Sea Monitors for the time associated with a "no  
41 show". The maximum amount of time for a no show is up to 2.5 hours. The At-Sea Monitor  
42 must arrive 30 minutes prior to the scheduled departure time and remain at the designated



1 area for up 2 hours following the scheduled departure time. Travel to and from the site and per  
2 diem are not included unless conditions in C.4.3.5 are met. Any costs billed for a “no show” will  
3 be billed against CLINS 0004, 1004 and 2004. There will be no reimbursement for situations in  
4 which it is the At-Sea Monitor’s fault for missing the trip or no attempt was made to  
5 communicate with the captain prior to taking the trip. A travel voucher (Section J, Attachment  
6 21, At-Sea Monitor Travel Voucher) is required for proper reimbursement.

7 Cost Reimbursement is authorized for At-Sea Monitors for the time associated with a  
8 “cancellation” in instances where trips are cancelled at the dock or when an at-sea monitor is  
9 en-route to the vessel and cancellations occurs. The maximum amount of time for a  
10 cancellation is up to 2.5 hours. Travel to and from the site and per diem are not included unless  
11 conditions in C.4.3.5 are met. Any costs billed for a “Cancellation” will be billed against CLINS  
12 0004, 1004 and 2004. A travel voucher (Section J, Attachment 21, At-Sea Monitor Travel  
13 Voucher) is required for proper reimbursement.

#### 14 C.4.3.7 Safety Requirements

15 Vessels must be in compliance with the At-Sea Monitor Health and Safety Regulations before an  
16 At-Sea Monitor is deployed  
17 ([http://www.nefsc.noaa.gov/fsb/Misc/Obs\\_Health\\_&\\_Safety\\_Regs.FR.11.01.07.pdf](http://www.nefsc.noaa.gov/fsb/Misc/Obs_Health_&_Safety_Regs.FR.11.01.07.pdf)). Vessels  
18 must pass the Pre-Trip Vessel Safety Checklist (Section J, Attachment 23) that will be performed  
19 by the At-Sea Monitor with the assistance of the captain or designee prior to deployment. If the  
20 vessel fails to pass the Pre-Trip Vessel Safety Checklist, the At-Sea Monitor shall not sail on the  
21 vessel and shall complete Safety Deficiency Report (Section J, Attachment 22, Safety Deficiency  
22 Report), which shall be provided to the captain and NMFS.

23 Valise life rafts will be issued to the contractor by NMFS upon award of the contract. It is  
24 expected that the contractor shall maintain the life rafts while in their care and ensure the life  
25 raft is up to date with service and inspections. When service and inspection dates are coming  
26 close to their expiration, the contractor shall contact NMFS to schedule a drop off of the raft. If  
27 there is evidence that the life raft is not treated properly while in their care (i.e., dragged on the  
28 ground resulting in holes in the raft) then the contractor will be liable for the cost of a  
29 replacement raft.

30 At-Sea Monitor safety is of paramount importance to ASM. If at any time an At-Sea Monitor  
31 feels that a vessel is unsafe prior to departure, they may decline the trip and report this on the  
32 Pre-Trip Vessel Safety Checklist

33 (Section J, Attachment 23) to NMFS.

#### 34 C.4.3.8 Communication

35 The contractor shall provide and employ a method for At-Sea Monitors to communicate vessel  
36 departure and arrival information; handle At-Sea Monitor emergencies and/or problems  
37 related to At-Sea Monitor logistics when they are at sea, in transit to the dock, or in port  
38 awaiting vessel departure. The contractor shall contact NMFS of all emergency situations,  
39 including medical, within twelve (12) hours of learning of the incident as referenced in Section  
40 F.5.14.

1 The contractor shall provide NMFS with access to a real time online At-Sea Monitor tracking  
2 system for At-Sea Monitor deployments (including vessel identifier information), leave  
3 schedules, and status (part-time vs. full-time) updates as referenced in Section F.5.15.

4 The contractor shall provide NMFS with all written documents/memos that are sent their At-  
5 Sea Monitors within 24 hours of when the document/memo is sent as referenced in Section  
6 F.5.25.

7 The contractor shall notify NMFS of when an At-Sea Monitor is subject to disciplinary action by  
8 the contractor (i.e., placed on probation, performance monitoring, etc....) within 24 hours of  
9 when the disciplinary action took place as referenced in Section F.5.26.

#### 10 C.4.3.9 Notification of Potential Infractions

11 The contractor shall immediately notify the COTR of any potential violation of the Rules and  
12 Regulations that implement the Fishery Management Plan under the Magnuson-Stevens  
13 Fishery Conservation and Management Act, Marine Mammal Protection Act or Endangered  
14 Species Act or any regulations that govern the At-Sea Monitor program, including but not  
15 limited to: vessels failing to provide adequate notification prior to departing, failing to take an  
16 At-Sea Monitor, incidents of At-Sea Monitor interference, harassment, or intimidation. The  
17 contractor shall ensure that each returning At-Sea Monitor is debriefed for incidents of  
18 intimidation, interference, or harassment within twelve (12) hours of trip landing as referenced  
19 in Section F.5.14. Reported incidents of the vessel failing to take an At-Sea Monitor or  
20 incidences of the contractor failing to handle incidents of interference, harassment or  
21 intimidation of At-Sea Monitors will be investigated by NMFS.

#### 22 C.4.3.10 Vessel Operations and Working Conditions

23 Fishing vessels routinely operate out of ports from New York to Maine (Section J, Attachment  
24 24, Location of ASM Trips in 2010). Trips can range from 1-14 days in duration. The vessels  
25 operate in ocean waters, 3-200 miles offshore in all weather conditions. Vessels are generally  
26 30-150 feet in length. Crew members and At-Sea Monitors live and sleep in cramped quarters,  
27 often in damp conditions and share common facilities. On some vessels, the crew does not  
28 speak English. At-Sea Monitors must be willing to travel occasionally to cover locations other  
29 than their primary ports.

30 At-Sea Monitor Health and Safety Regulations require sleeping areas for the At-Sea Monitor to  
31 be equal to those of the crew. Some vessels have no shower and may lack permanent toilets or  
32 bunks. Although vessels may not have separate facilities for women, federal regulations require  
33 reasonable privacy for female At-Sea Monitors. Female At-Sea Monitors on a vessel with an all-  
34 male crew must be accommodated with adequate privacy which can be ensured by installing a  
35 curtain or other temporary divider, in a shared cabin. Because of the size and responsiveness of  
36 these vessels to sea conditions, motion sickness can be debilitating for some individuals and  
37 should be seriously considered in all prospective At-Sea Monitor candidates. Most vessels carry  
38 no trained medical personnel aboard and rely upon first aid knowledge of the boat's operator  
39 in consultation with land-based physicians via radio.

Food is provided on multiday trips for the At-Sea Monitor and must be equal to the food being served to the rest of the crew. On single day trips, At-Sea Monitors must bring their own food and water.

#### C.4.3.11 Data Quality

The NMFS COTR will monitor all aspects of contractor performance as described below:

- Failure to deliver data from an observed sea day includes:
- All data must be delivered at the required time frame, as specified by NMFS.
- Data must not be fraudulent or of such poor quality as to be unusable (i.e. if determined to be fraudulent or unusable within 90 days of receipt of the data).

The contractor shall interact with vessels which have carried At-Sea Monitors. They shall interview the captain; using NMFS issued workbooks with a pre-determined set of questions (Section J, Attachment 25, Captain Interview Questions), and determine if the At-Sea Monitor performed his/her job in a professional manner and carried out all required tasks. Unless otherwise instructed by NMFS, a random selection of 10% of each At-Sea Monitor's trips each quarter will have follow-up interviews. Format questions will be provided by NMFS. Trip Interview Reports will be provided to NMFS electronically within two working days of the interview as referenced in Section F.5.16. The contractor shall report, in writing to the COTR, all complaints made by the industry regarding At-Sea Monitor activities, as well as any At-Sea Monitor injuries aboard vessels or on docks to NMFS.

An At-Sea Monitor's ability to work will be based on his/her certification. If an At-Sea Monitor does not adhere to NMFS protocols or meet the At-Sea Monitor Standards of Conduct (Section J, Attachment 7, At-Sea Monitor Standards of Conduct), they may be placed on pre-probation, probation or decertified, as described in the NMFS policy statement regarding certification (Section J, Attachment 26, ASM At-Sea Monitor Performance Monitoring, Review, Probation and Decertification).

NMFS will provide the contractor with a data quality rating for each At-Sea Monitor (Section J, Attachment 19, Data Quality Rating).

#### C.4.3.12 Contractor Standards of Conduct

The Contractor shall comply with the requirements of Clause H.2.2 At-Sea Monitors Preventing Personal Conflicts of Interest. The contractor shall assign at-sea monitors without regard to any preference expressed by representatives of vessels based on, but not limited to, at-sea monitor race, gender, age, religion or sexual orientation.

#### C.4.3.13 At-Sea Monitor Termination Documentation

The contractor shall notify the COTR when an At-Sea Monitor leaves the ASM for any reason as referenced in Section F.5.19. Reasons for termination, whether contractor initiated or At-Sea Monitor initiated, must be documented and provided to NMFS within 7 days of the At-Sea Monitor's departure and shall be used to determine trends and assist in improving retention of qualified At-Sea Monitors as referenced in Section F.5.20.

1 C.4.3.14 Emergency Action Plan

2 The contractor shall institute an Emergency Action Plan that documents what they will do in the  
3 case of an emergency. The purpose of an Emergency Action Plan is to facilitate and organize  
4 employer and employee actions during workplace emergencies. Well-developed emergency  
5 plans and proper employee training (such that employees understand their roles and  
6 responsibilities within the plan) will result in fewer and less severe employee injuries. The  
7 contractor shall provide NMFS with a copy of their Emergency Action plan as referenced in  
8 Section F.5.27.

9 C.4.3.15 Quality Assurance Plan

10 The contractor shall develop and submit to NMFS a contractor Quality Assurance Plan, as  
11 referenced in Section F.5.3, which details how the contractor will ensure effectiveness and  
12 efficiency of collection efforts as well as the quality of data collected by its At-Sea Monitors. The  
13 contractor shall further establish, implement, and maintain a Quality Assurance Management  
14 program to ensure consistent quality of all work products and services performed under this  
15 contract.

16 C.5 PERFORMANCE MONITORING

17 C.5.1 Quality Assurance Surveillance Plan

18 NMFS intends to monitor contractor performance against the Schedule of Deliverables (Section  
19 F.5.3).

20 C.6 SECURITY RISK LEVEL DESIGNATIONS

21 The risk levels under this contract have been determined by the Program Office as shown in the  
22 list below:

- 23 • Program Manager  
24 SECURITY RISK = Low
- 25 • Coordinator  
26 SECURITY RISK = Low
- 27 • Observer I, II, III  
28 SECURITY RISK = Low  
29

30 Investigation Packages

31 At-Sea Monitors and key personnel would be considered contractors and all undergo the  
32 required background investigation (Section J, Attachment 13, Security Background Instructions)  
33 and would be either U.S. Citizens, Naturalized Citizen, Green Card Holders (aka Permanent  
34 Resident Card), or Foreign Nationals. The following requirements will be completed prior to  
35 official hiring:

- 0 – 30 days = Security Worksheet, Finger Print Cards (FD 258 Cards)
- 31 – 179 days = Security Worksheet, SAC Form (OFI Form 86C), Finger Print Cards (FD 258 Cards)
- 180 or greater days = EQIP Package
  - Security Worksheet
  - Electronic Questionnaire (filled out after applicant has been placed in EQIP)
  - EQIP Signature pages (generated after applicant has completed Questionnaire in EQIP)
  - Declaration for Federal Employment (Optional Form 306)
  - Finger Print Cards (FD 258 Cards)
  - Fair Credit Reporting Form (filled out based on position sensitivity)

Foreign National (FN) Information (must be submitted along with Investigation Packages)

Foreign Nationals is anyone who is a non-U.S. citizen or non-green card holder (aka permanent resident card). Foreign Nationals fall into two categories: Visitors or Guests. Visitors are personnel onsite for up to 3 days; or whom will be attending a conference, workshop, or training (which can go up to 5 days). Guests are personnel who will be onsite over 3 days and who do not fall into the 5 day category listed above. All Foreign National Visitor/Guests information must be submitted through the Foreign National Registration System (FNRS) by NMFS.

#### C.7 CLAUSES INCORPORATED BY REFERENCE

C.7.1 CAR 1352.237-71 SECURITY PROCESSING REQUIREMENTS—LOW RISK CONTRACTS (APR 2010)

(Reference 48 CFR 1337.110-70)(c))

C.7.2 CAR 1352.237-73 FOREIGN NATIONAL VISITOR AND GUEST ACCESS TO DEPARTMENTAL RESOURCES (APR 2010)

Reference 48 CFR 1337.110-70)(e))